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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Le Pont, ABC Tamil Oli, Action of Human Movement (AHM), Alliance Creative Community Project, Association Bharathi Centre Culturel Franco-Tamoul, Association Burkinabé pour la Survie de l'Enfance, ASSOCIATION CULTURELLE DES TAMOULS EN FRANCE, Association des étudiants tamouls de France, Association Mauritanienne pour la promotion du droit, Association pour les Victimes Du Monde, Association Solidarité Internationale pour l'Afrique (SIA), Association Thendral, Integrated Youth Empowerment - Common Initiative Group (I.Y.E. – C.I.G.), L'observatoire mauritanien des droits de l'homme et de la démocratie, Society for Development and Community Empowerment, Tamil Uzhagam, Tourner La Page, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809684

Please recycle

Civil And Political Rights Abuses In Spain, And Specially In Catalonia*

In Spain, civil and political rights are not being duly respected, and several groups and individuals are suffering violations of such rights.

This written statement focuses on situations occurred in September and October 2017, when Spanish citizenship suffered persistent violations of their rights by authorities and public institutions and bodies, mainly in Catalonia, but also in some cities of the Kingdom of Spain.1

Incidents related to civil and/or political rights violations include physical and psychological assaults, as well as inhuman and degrading treatment, with severe use of force, by Spanish law enforcement services against peaceful civil population -particularly against peaceful assemblies of civilians who wished to exercise their right to cast their vote at the referendum on Catalonia's independence on the 1st October, with the result of 1066 injured people (following a violent standardised and systematised pattern deployed all over Catalonia)- ignoring recommendations made by several UN Special Rapporteurs to Spain on this regard on the 28th September 2017. 2

There have also been attacks on privacy by means of breaking and entering in private homes without legal guaranties, or violation of postal and electronic mailing, right to free assembly, freedom of expression, freedom of information, and communication and broadcast of ideas; and to freedom of the press.

Moreover, during the referred and following months of 2017 up to present, there have been attacks to effective judicial protection, to the right of due defence and to no-defencelessness, to a fair and equitable trial, to the independence of judges and to separation of powers, as well as an abuse of pre-trial detention, as stated by the Hight Commissioner on Human Rights on the 37th session of the Human Rights Council. 3

All of these incidents have taken place in an environment of political procedures known as "lawfare" (extra-legal, undue, extra-limited or abusive use of judicial resources by means of political persecution, as well as political use of legal instruments), "extraordinary rendition" and other similar police, administrative and extra-legal parajudicial procedures, or to avoid to enforce international and national laws directly related to human right issues.

_____ and the other organisations that give support to this statement4 are worried at the lack of legal security and non-observance of criminal principles of minimal intervention and *ultima ratio*, coming from the Spanish Public Prosecutor's Office , the Spanish Law Enforcement Services and the Spanish Government against a potentially high number of Catalan citizens (including the Catalan Government, members of the Board of the Catalan Parliament, more than 750 elected Majors of Catalan cities, and many other political and social groups and leaders.

There is no knowledge that the Spanish Government has informed other countries that signed the International Covenant on Civil and Political Rights through the Secretary General of the United Nations, of a suspension of rights,

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1 Two reports and videos gathering violations of civil and political rights:
http://www.lafede.cat/wp-content/uploads/2018/03/1stOct_human_rights_report.pdf , http://www.lafede.cat/es/somdefensores-registre-de-material-audiovisual-1-o/,
http://collectiupraga.cat/wp-content/uploads/2018/04/Ampliaci%C3%B3-den%C3%BAncia-10-04-18.-Angl%C3%A8s.pdf

2See http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22176&LangID=E(last check 24/5/2018)

3See http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22772&LangID=E (last check 23/5/2018), M.Zeid Ra'ad Al Hussein, 7th March 2018

4Catalan NGOs ACDC, NOVACT y HRCat

of the human rights provisions that were intended to be suspended nor reasons for said suspension, all of this as required by article 4.3 of the International Covenant on Civil and Political Rights to which the Kingdom of Spain is a party.5

All of these signs and many other, give account on the deterioration of the country's democracy.

Examples of violations of the right to freedom of peaceful assembly 6 in September 2017

12th September. A Judge of a Spanish High Court in Madrid 7 (Juzgado de lo Contencioso-Administrativo, translated as Contentious-Administrative Court) banned an event scheduled on a public venue of the City Council of Madrid 8 under the slogan "*Madrid for the right to decide*" (event conceived as a debate of ideas on the right to decide on public issues, its limits and scope 9. The organizers were forced to move the event to a private venue of lower capacity that resulted in an overcrowded event that left many people outside on the street 10. The rights of organizers, participants and the audience were violated, so was the principle of "*favor libertatis*" that protected them all.

14th September. The City Council of Gijón revoked the authorization initially granted to the organizers and prohibited a debate entitled "Catalonia: from the transition to the referendum", an event that sought to discuss a current topic.

15th September. A Contentious-Administrative Court of Vitoria-Gasteiz banned an event about political issues at Aldabe civic center in the Alaba province capital 11.

20th September. Several police agents from separate corps requested identification and took photographs of people attending spontaneous or organized political rallies 12.

21st September. Zaragoza's Provincial Council banned a public event at Pignatelli School in Zaragoza that bore the title "National assembly of deputies and mayors for freedom of expression, fraternity and dialogue"13. This ban was issued following the one issued by Contentious-Administrative Court No. 3 of Madrid, previously referenced. Finally, the event could be held in a sporting venue in Zaragoza, where participants, media and attendees were harassed and insulted by neo-fascist demonstrators, that also assaulted with a blunt object the Speaker of the Parliament of Aragón, Ms. Violeta Barba 14, apparently as a result of the lack of security, due to the absence of police officers, that were mostly deployed in Catalonia.

27th September. The City Council of Barcelona denied a request for a public event requested in due time by a private Community Organization scheduled for September 27. Said refusal was notified on September 27, 2017, based on a resolution by the Constitutional Court of Spain issued on September 7, 2017, so that the City Council argued that it was

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5 http://www.ohchr.org/SP/ProfessionalInterest/Pages/CCPR.aspx (last check 23/5/18)

6 Art 20 of the UNHUD; art.21 of ICCPR art 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe; art 21 of the Spanish Constitution.

7 See https://assets.documentcloud.org/documents/3991035/ CCI12092017-00000.pdf (last check 13/10/18).

8 Contentious-Administrative Court of Madrid nº 3, Edict of 12th September 2017, which ordered to call off the event by petition filed by the Municipal Grupo Popular of the City of Madrid.

9 See https://politica.elpais.com/politica/2017/09/13/ actualidad/1505327014_625102.html ,(last check 13/10/2017).

10 See http://www.lavanguardia.com/politica/20170917/431363055967/madrid-acto-derecho-decidir-referendum-joan-tarda-lavapies-teatro-barrio.html (last check 23/5/2018)

11 See http://www.poderjudicial.es/cgpj/es/Poder-Judicial/Noticias-Judiciales/Un-juez-de-Vitoria-prohibe-la-cesion-de-un-local-municipal-para-un-acto-de-promocion-del-referendum-del-1-O, (last check 23/5/2018)

12 See http://www.rac1.cat/info-rac1/20170918/431386863052/ expedientat-un-policia-de-sitges-que-va-agafar-per-la-forca-un-mobil-a-un-periodista.html, (last check 23/5/2018), and also: http://elmon.cat/noticia/232314/policia-espanyola-identifica-assistents-manifestacio-puerta-del-sol (last check 23/5/2018)

13 See http://www.eldiario.es/politica/Diputacion-Zaragoza-convocada-Unidos-Podemos_0_689081887.html (last check 23/5/2018)

14 See http://www.publico.es/politica/grupo-ultras-obliga-bloquear-puertas-asamblea-unidos.html (last check 23/5/2018)

a political event related to propaganda for the referendum, according to information gathered from social networks, as stated in the refusal notice.

On its side, The City Council of Sueca denied authorization for a public event requested by a youth political organization, scheduled for September 27th .

1st October. The Spanish Government Delegation in Extremadura denied administratively the request by the Student Council of Badajoz (and other entities) for a public event of support of the victims of police attacks on October 1, 2017 in Catalonia while being peacefully assembled.

For all these reasons, sensitive to human rights abuses, We urges the Government of Spain:

a) to extend a personal invitation for a country visit to any Special Rapporteur that may ask one -and, in any case to those listed on page 51 of the first report referenced in note 1.

b) to stop hindering the free exercise of civil and political rights and freedoms included in binding international instruments for Spain, and to take all necessary steps before any attempts to limit o restrict them.

c) to allow an independent international inquiry on the violation of mentioned civil and political rights.

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*Associació Catalana pels Drets Civils, (Catalonia) NOVACT – International Institute for Nonviolent Action (Catlonia) Human Right CAT (Catalonia), Association Le Collectif La Paix au Sri Lanka (France), Association pour le Droit de l'Homme et le Développement Durable (France), Association internationale des Droits de l'Homme de Bourgogne (AIDHB) (France), Association Jeunesse Etudiante Tamoule (J.E.T.) (France), L'Association Mondiale des Droits de l'Homme (A.M.D.H) (Suisse), Association international des Droits de l'Homme (France), Tamil Movement (Suisse), Collectif des Droits Humains (France), May 17 Movement (Tamil Nadu), Marumalarchi Dravida Munnetra Kazhagam-MDMK (India) ; Naam Tamilar (India), Thamizhaga Ilaignar Munnani (India), Thamizhga Uzhavar Munnani (India), Thamizh Thesiya Periyakkam (India), People's Union for Civil Liberties (India), Thamizh Thesiya Periyakkam (India), Federation of Students – Youths for Tamil Rights (India), Association des Jeunes Musulman contre le Genocide (India), Tamil Kalaikoodam LTD (India), Green Tamilnadu Party (India), Tamil Nadu Vanigar Sangankalin Peravai (India), Cauvery Protection Movement (India), NGOs without consultative status, also share the views expressed in this statement.

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Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Growing Racism and Xenophobia in Europe*

In the past decade Europe has undergone economic and political crises and has experienced significant increases in migrants, especially refugees and asylum seekers. This is an important phenomenon to realise as blame for these crises and ensuing situations unjustly fall on minority groups. In addition, violent extremists who are on the rise have committed acts of violence and have sought to unrest societies and communities in Europe. However, the concerning responses to this phenomenon and towards hostile acts have been regrettably directed in the wrong directions by both civilians and politicians alike that has resulted in unfortunate circumstances and negative stereotypes.

In addition to race-based violent attacks, hate speech and verbal slurs discrimination is still a serious issue in economic, social and political fields such as housing, employment, health services, education, political participation and criminal justice among others. Moreover, the media is continuously being exploited to spread xenophobia, stereotypes, and untrue claims.

Racism and Racial Discrimination in Europe

The European Council on Tolerance and Reconciliation (ECTR) among other European commissions are finding that intolerance in Europe is growing. This phenomenon is of major concern especially considering its prevalence among political leaders of which several have aligned themselves with far-right and extreme-right political ideologies and parties1; they have also reached out to the youth demographic for their support and have done so with success23. Those who feel threatened, attempt to push a discriminatory agenda, or direct blame towards a phenomenon, often scapegoat minorities and in so-doing increase racism and racial discrimination. 4

In a comment by the Council of Europe (CoE) on human rights, historical roots, namely colonialism and the Trans-Atlantic Slave Trade, were acknowledged as persisting factors towards modern prejudices and inequalities in Europe. The comment also noted that racism and racial discrimination against blacks was experienced at all levels of society, including the governmental level, in numerous countries adversely affecting social cohesion. The CoE is also concerned that the lack of diversity as a result of racial discrimination and Afrophobia serves as a deterrent to interested persons in such fields.

Islamophobia has been on the rise for over a decade and contemporary manifestations have taken place. In several European countries the majority of discrimination, attacks, hate crimes and speech, that are driven by Islamophobia are increasingly against women. A study showed that when job-searching Muslim women are more likely to be asked questions related to their lifestyle, family, and goals than non-Muslim women; additionally, it also found that clothing, especially the headscarf, and name are barriers they carry when finding and keeping a job. The study noted that the spread of Islamophobia takes place in societal life and the media; it acknowledged that journalism and politicians play a major role in the spread of Islamophobia5. Worse still, Islamophobia is not only becoming mainstream but is also being used as a political tool. The migration crisis together with attacks by Islamic extremists has led politicians to scapegoat Muslims, Arabs, and refugees as elements of fear in an attempt to win votes as they run for power; Muslims have been negatively stereotyped as 'terrorists', 'violent', 'jihadists', 'uncivilized', 'rapists' etc. and in general portrayed as a

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1http://www.nigdywiecej.org//docstation/com_docstation/20/r._pankowski_how_best_to_respond_to_the_rise_of_populist_extremism._ectr_2018.pdf

2 For instance, the political group Kukiz in Poland who are ant-Muslim and anti-immigration.

3 Far-right extremists and white supremacists are growing in numbers and gathering to "defend Western civilization" as evidenced by the Warsaw march that was held on November 11, 2017.3 Additionally, countries such as Poland and Hungary right-wing governments white-wash their histories and promote tough anti-migrant laws whereas countries such as Germany and Austria elites support and help far-right wing governments increasing their power and influence.

4 https://www.opensocietyfoundations.org/explainers/islamophobia-europe

5 http://enar-eu.org/IMG/pdf/20095_forgottenwomenpublication_v5_1_.pdf

'threat' to European Christian values. 6 The same actors who spread fear against a particular group have the obligation, power, and tools to protect against said groups and promote human rights and diversity.

According to incident reports by European anti-Semitic groups and organisations, attacks against Jewish schools and kosher establishments persist in several countries in Europe7 and further reported that anti-Semitic banners were flown at football matches in Russia that in some cases led to violence8. The incident reports also claim that anti-Jewish propaganda is being taught in schools and also persists in the media. In addition to the need for more data collection some have suggested there is a need for legal definitions.

Non-Discrimination Laws in Europe

Europe has in place existing laws and provisions that guarantees a society free from racial discrimination. Non-discrimination can be found in several European legal documents; as pointed out in the Handbook on European non-discrimination law (2018) - "The aim of non-discrimination law is to allow all individuals an equal and fair prospect to access opportunities available in a society".

Such provisions ensuring non-discrimination practices are present in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) under Article 14, 'Prohibition of Discrimination': "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as… race, colour, language, religion… national or social origin, association with a national minority…". Furthermore, Article 1 of the ECHR ensures human rights for all: "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention."

It should be noted that the Court of Justice of the European Union (CJEU) refers to ECHR and with the Treaty on European Union (TEU) they look to the ECHR for guidance and inspiration towards protecting human rights under European Union (EU) law. All member states of the EU have joined the ECHR and CJEU effectively adhering to the principles of non-discrimination. The CoE also has several treaties that revere this principle.

National Policies

As it is not possible to take the EU before the European Court for Human Rights (ECtHR) and justice can only be done by issuing a complaint "before the national courts" it is evident that national courts themselves must be fully capable and equipped to handle complaints and cases of all forms of racial discrimination. Moreover, access to national courts and awareness of such procedures must be made readily available in all member states, and furthermore, authorities must be trained and in suitable position to address incidents of racism and racial discrimination.

In addition, Racial Equality Directive (2004/43/EC) and Employment Equality Directive (2000/78/EC) prohibits discrimination against racial or ethnic origin and in employment on the ground of religion or belief respectively. The Victims' Rights Directive (2012/29/EU) establishes minimum standards on the rights, support and protection of victims of crime. 9

However, according to ENAR's recent Shadow Report there is no specific EU or national policy that combats discrimination against black Europeans and people of African descent, and furthermore, resources to combat such discrimination against this group is on the decline. This is of serious concern as 'discriminatory policing' and 'black profiling' continues to be of great concern as it adversely affects social cohesion for people of African descent and

6http://www.nigdywiecej.org//docstation/com_docstation/20/a._piela_a._lukjanowicz_islamophobia_in_poland._national_report_2017._europea.pdf

7 http://www.ep-wgas.eu/wp-content/uploads/2017/02/Incidents-Report-2016-FINAL.pdf

8 http://farenet.org/news/erasmus-term-slug/monitoring-report-details-racism-russian-football/

9 file:///C:/Users/GICJ/Downloads/fra-2017-antisemitism-update-2006-2016_en%20(2).pdf

Europe at large10. In light of this disparity and lack of national policy it cannot be stressed enough the urgent and necessary need for member states to fully adopt and implement the Durban Declaration and Plan of Action (DDPA) as it "calls for comprehensive national action plans to eradicate racism, racial discrimination, xenophobia, and related intolerance. It calls for the reinforcement of national institutions and it formulates concrete recommendations in the areas of national legislation and the administration of justice".

More Attention

The Mediterranean region should be considered with great concern over racism and racial discrimination. It serves as a crucial route for migrants or refugees and asylum seekers heading to Europe. However, despite several principles and instruments in place such as the CERD and DDPA discrimination persists within home and destination countries. More attention needs to be paid on the plight of Roma people and communities especially with regard to housing, health, and education.

More attention also needs to be paid by UN bodies in terms of support, advocacy, and funding towards ending all forms of racial discrimination and implementing the DDPA, which combats racism and promotes equal rights for all. Different strategies and planning must be put into effect - most member states and to some degree the UN itself lack the political will to implement or advocate the DDPA. More focus on access to justice is warranted and will require technical and financial assistance towards training.

Conclusion

There is a refusal to address racism and a serious lack of quality data. For instance, FRA Europe, remarked anti-Semitic incidents are only recorded by few EU member states - there is inadequate and under-recording of hate crimes. According to FRA Europe this undercuts the "extent, nature and characteristics" of the crime and further hinders policy-makers and relevant stakeholders to take the necessary measures and courses of action towards combatting racism and racial discrimination. Additionally, unreported incidents mean that victims will not get due justice and perpetrators will not be held to account.

Politicians, journalists, and opinion-makers have a crucial part to play in not only exposing racial hatred and discrimination but also in promoting diversity and respect for human rights against racism as emphasised under several existing conventions and resolutions.

Recommendations for states:

- *Put in place* measures to increase and enhance data collection;
- *Adopt and fully implement* the DDPA;
- *Commit* Protocol No. 12 of ECHR;
- *Use* media to combat racism and promote human rights education;
- *Increase* awareness and access to justice with guaranteed safety to appropriate judiciary systems.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), NGOs without consultative status, also share the views expressed in this statement.

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10 http://www.enar-eu.org/IMG/pdf/afrophobia_strategydoc_final.pdf

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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Occupied Palestinian Territory Occupation - No End in Sight*

In recent years, the human rights situation in Palestine and other Occupied Territories have continued to deteriorate. Additionally, measures taken and activities administered against the people of Palestine indicate that a peaceful resolution to end the conflict is slipping away.

Embassy Relocation to Jerusalem

On 6 December 2017, the United States of America (US) President Donald Trump confirmed his decision to relocate the US Embassy from Tel-Aviv to Jerusalem. Aside from drawing anger from people across the globe, it served as a symbolic political demonstration that the US and other countries who supported the move would recognize Jerusalem as the official capital of Israel and thus further distancing Palestine's connection especially towards East Jerusalem. On May 14th the US and some other countries who regularly side with the US in regards to their position on Israel also moved their embassies to Jerusalem. This move is in direct violation of resolution 181 of 29 November 1947 and resolution 36/120 of 10 December 1981 among other UN resolutions with regard to the Holy City of Jerusalem.

It should also be well-noted that the timing to move the Embassy from Tel-Aviv to Jerusalem fell on the eve (14 May) of the 70th Nakba Anniversary (15 May), which shows a complete lack of respect and empathy towards the plight of the people of Palestine. While this move demonstrated that the US and President Trump are no longer, or never have been, honest peace brokers in the Israel/Palestine conflict it does not change the internationally recognized status of Jerusalem. East Jerusalem remains occupied and is still recognized as the future capital of Palestine.

The international community and the Human Rights Council must recall that UN resolutions prohibit any measures taken towards changing the character and status of the Holy City of Jerusalem. Israel has already instituted its so-called 'Jerusalem Closure Policy' by installing checkpoints, constructing a 'Separation Wall', and establishing a permit regime with regard to the city of Jerusalem.

Great March of Return

The 'Great March of Return', the six-week campaign consisting of a series of protests organized by Palestinians to demonstrate against the denial and refusal of Israel to grant Palestinian refugees their right to return, began on 30 March 2018, which also marks 'Land Day'. Since its launch nearly 100 Palestinians have been killed and over 12,000 injured mainly at the hands of Israeli security forces who maintain that their actions have been in self-defence. However, it has been reported that children, journalists, and medical staff are among the casualties. This demonstrates that the use of excessive lethal force and indiscriminate attacks by Israeli forces have transpired.

Palestinians also assembled to protest the US Embassy move on 14 May but were met with further indiscriminate attacks by Israeli forces that resulted in the death of nearly 70 demonstrators and injured close to 1,400 including women and children. Furthermore, live ammunition including rubber-coated steel bullets and tear-gas canisters were administered on unarmed protesters who were shot in the head, limbs, chest and back.

It should be well noted that while some demonstrators managed to throw stones, launch Molotov cocktails, and fly kites on fire, there has been to date no report that these actions posed an imminent threat to Israel nor Israeli soldiers. Thus, the actions by the Israeli forces were excessive and unwarranted contradicting claims that the Israel Defense Forces' (IDF) actions saved lives.

It is with deep regret and dismay that Israel continues to show zero sign of cooperating with its international obligations with regards to the human rights situation in Palestine, and that they have no intention of adopting any resolutions on this issue or abiding by any previous, current, and future UN resolutions regarding its occupation of the Palestinian territory or the human rights situation of the people of Palestine.

Children in Gaza

Reports of the attacks on Palestinian protesters by Israeli forces have brought about thousands of casualties including women, children, and persons with disabilities. Accounts and claims have surfaced that the Hamas organisation also bears some responsibility with regard to the dire situation of children in Gaza and under the occupied territories. As reiterated strongly by the High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, "children… must not be put at risk of violence or encouraged to participate in violence".

However, despite accounts of children throwing rocks and crossing into the line of fire, this does not constitute as an imminent threat that warrants or justifies the use of deadly force. Furthermore, as the High Commissioner also strongly stated, "children should never be the targets of violence".

Palestinian children have suffered greatly for years under the Israeli occupation according to numerous reports by UNICEF, OHCHR, and other UN bodies. The Gaza blockade along with consistent deadly attacks leaves children to grow and live in serious conflict situations – hundreds of thousands are in trauma and shock, orphaned, permanently disabled, or without homes. Furthermore, education and health facilities and sectors are damaged or destroyed debilitating the health and learning of children in Gaza. Worse still economic blockades prevent children and their families from any sort of recovery1.

Palestinian children are also denied the right to a nationality and family life by the occupying state, Israel. This is a direct violation of Article 7 of the Convention on the Rights of the Child (CRC) and as a result Palestinian children are rendered stateless. Moreover, Israel has regulations that deny registration of Palestinian children under its Article 12 of the Entry into Israel Regulations.

Human Rights Situation in Palestine and Accountability

While the deteriorating situation of human rights in Palestine persists over the decades there is little to no accountability whatsoever against the perpetrators and no justice for the victims under the occupation, which includes continuous demolitions and punitive demolitions, serious human rights abuses and grave violence, and deprivation of basic rights and dignity. It is without a doubt that the justice system is incapable of administering justice and bringing perpetrators to justice as it is witnessed on a regular basis that they enjoy impunity and violations continue to be carried out.

The Council and the international community must bear some responsibility as said violations of human rights and the oppressing system and occupation has been ongoing since 1967. It is thus due time that the Security Council institute Chapter 7 of the UN Charter regarding the Israel/Palestine situation. Similar actions that were taken by the international community to end Apartheid in South Africa must be implemented urgently to end the occupation in Palestine.

Much concern remains regarding Israel's justice system as Palestinian children continue to be detained. As well, the Working Group on Arbitrary Detention restated that civilians must never be tried by military courts as is the case in the occupied territories. Additionally, the High Commissioner has said on several occasions that there is a general lack of accountability and numerous cases of impunity over violations of International Human Rights Law, and International Humanitarian Law by Israeli forces against Palestinian civilians. On this note, the Office of the High Commissioner on Human Rights noted that Israeli policies on the use of force are not in line with international norms and standards thus resulting in lack of accountability.

Conclusion and Recommendations

The serious situation of human rights in the Occupied Palestinian Territories has been long-standing and the recent attacks against Palestinian protesters is not a one-time account. While it should not be taken lightly and is a serious offense by the perpetrators, it should serve to shed light on the occupation of the Palestinian territories by the state of Israel as a whole. The treatment and denial of rights such as the right to life, right to health, right to peaceful assembly and association, and the right to a nationality and family life among numerous others deserves the full attention of the Human Rights Council and the international community at large.

1 https://www.unicef.org/infobycountry/oPt_74620.html

Resolving the long-standing Israel/Palestine tragic situation can only be done with the assistance of the international community and the Security Council. The fact that Israel has violated previous UN resolutions regarding serious human rights situations in the Palestinian territories and its non-compliance and non-cooperation with UN bodies is a worrying indication that Israel is above the law. To this end, the undersigning organizations recommend the international community and the UN Human Rights Council to:

- *Urge* the Security Council to institute Chapter 7 of the UN Charter regarding the Israel-Palestine situation;
- *Urge* the Council to investigate whether Israel is committing genocide against Palestinian people;
- *Compel* Israel to reform its child registration laws in relation to ensuring the rights and nationality of Palestinian children;
- *Ensure* the voluntary right of return of Palestinian refugees and internally displaced persons as well as property restitution, compensation and redress for losses and damages to their lands and homes;
- *Oblige* Israel and other relevant member states to cease all measures taken towards altering the character and status of the Holy City of Jerusalem;
- *Put pressure* on Israel to comply with UN resolutions and cooperate with UN Special Procedures concerning the human rights situation in the Occupied Palestinian Territories.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), The Iraqi Centre for Human Rights, NGOs without consultative status, also share the views expressed in this statement.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

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1809686

Please recycle

South-Eastern Mediterranean: The Incorporation of the EU Asylum Directives in the South-Eastern EU Countries*

The purpose of *Directive 2013/32/EU* of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (recast) (hereinafter Directive 32) and *Directive 2013/33/EU* of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (hereinafter Directive 33) adopted in June 2013, is to establish common procedures for the reception of applicants for international protection and for granting and withdrawing international protection.

The Directives introduce a number of positive changes, which if correctly transposed and implemented in practice will lead to improved and equal reception standards and treatment for many asylum seekers throughout the EU.

Member States are under an obligation to transpose and implement these Directives in a manner which is consistent with international and EU law. The Directives left considerable room for manoeuvre to Member States regarding their transposition. The four south-eastern EU countries (namely Greece, Malta, Cyprus and Italy) have all taken legislative action in order to incorporate the Directives into their national legislation.

- **Greece**

Greece has transposed Directive 32 into its national legal order through Law 4375/2016 and Law 4399/2016. There is no prerequisite under Greek law that safety criteria of "safe third country notion" are taken into account when examining whether a country qualifies as a "first country of asylum"[1].A possible repercussion is that an application may be considered inadmissible on the ground of first country of asylum even if said country, in the current context Turkey, does not satisfy the criteria of a "safe third country".

Regarding Directive 33, hitherto, only Articles 8-11 have been incorporated in the Greek legal order, although the deadline for the transposition has expired since July 2015.[2] The provisions, which have already been transposed, relate to the detention of asylum seekers and do not provide adequate safeguards for asylum seekers. There are serious concerns regarding the notion of "the risk of absconding", which is defined as a reason for detention. Following the EU-Turkey statement, it has been observed that upon arrival all migrants in the Greek islands are detained on presumed risk of absconding. This risk constitutes an "automatic assumption and is not supported by any specific documents."[3] Such automatic assumptions should be avoided and an individual case assessment should be carried out.[4] The EU-Turkey statement was meant to be "a temporary and extraordinary measure... necessary to end the human suffering and restore public order"[5]. Nevertheless, two years after its release, it has become a steadfast phenomenon, which, among others, reinforces the containment policy in the Greek islands, while the human suffering it was meant to address is still present.[6] Furthermore, "public order" grounds have been extensively used to justify detention. Notably, such detention orders are scarcely properly justified.[7]

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1 Article 19(2) Presidential Decree 113/2013

2 See Directive 33 Article 31

3 Fundamental Rights Agency, Opinion on fundamental rights in the 'hotspots' set up in Greece and Italy, December 2016, 48-49.

4 EU Commission, Return Handbook, p 12

5 EU-Turkey Statement, 18 March 2016, paragraph 5, available at: http://bit.ly/2tk5u0r

6 Joint Statement of 9 Greek Organizations, Almost two years after EU-Turkey statement, people are still trapped on the islands, 6 March 2018, available at: http://bit.ly/2H7xPcv

7 Greek Ombudsman, Document 171931/37998/2013 and Return of third-country nationals: Special Report 2014, May 2015, available in Greek at: http://bit.ly/2k40chi at 4; See also UNHCR, Greece as a Country of Asylum - UNHCR's Recommendations, 6 April 2015, available at: http://bit.ly/2ke9lpA at VI (10)

- **Malta**

Malta has transposed Directive 32 throughout Legal Notice 416/2015. Legal Notice 416 incorporates the Directive in the national legal order with minimum amendments. It appears that the amendments made, reinforced the national legislation, which is now able to meet the needs of asylum seekers in the country.

Malta transposed Directive 33 throughout Legal Notice 417/2015. The definition of family members under Article 2 is problematic; it fails in recognizing family bonds which may have been created subsequently to departure from the country of origin, for instance during or after flight, or in refugee camps. Furthermore, it is stipulated that in case that applicants have sufficient resources or have been working for a reasonable period of time, they might be required to cover or contribute to the cost of the material reception conditions and of the health care provided for in these regulations.[8] However, the notions of "sufficient resources" and "reasonable period of time" are very vague and require further elaboration by the Maltese legal order. For this determination it is crucial that Maltese legislation provides for an assessment of risk of destitution, made prior to the decision-making.

The same applies to access to health care; there is no minimum threshold regarding the level of health care that should be ensured. One further deficiency in the Maltese law is that although it dictates that the level of material reception conditions should ensure a standard of living adequate for the health of asylum seekers, it does not determine adequately this level.

- **Cyprus**

Cyprus has transposed both Directives through Laws 105(I)/2016 and 106(I)/2016. Article 31(3)-(5) of Directive 32 have not yet been incorporated in the national legal order.

A first deficiency of the Cypriot law is that it provides that for applications made before 20 July 2015, the judicial review confines in examining points of law, but not facts. Therefore, applicants who have lodged their application prior to this date do not have access to an effective remedy. Additionally, access to free legal assistance is rarely provided to applicants in practice, rendering the procedure inaccessible for applicants with no financial means. Additionally, there are no guarantees for persons who attempted to file an application, but were not able to do so.

In order for material reception conditions to be provided, the asylum seeker has to submit an application, by presenting a confirmation that the application has been made.[9] While this confirmation might take up to 9 days to be issued subsequently to the making of an application,[10] it is evident that the Cypriot legislation is problematic in terms of provision of material reception conditions to persons of concern during the first crucial days subsequently to their arrival in EU territory.

Another vacuum in the Cypriot legislation is that although it prohibits the detention of asylum seeking minors, there are no safeguards provided for other vulnerable groups.

- **Italy**

Italy has transposed Directive 32 into its national legal order throughout Legislative Decree 142/2015 and Law 46/2017. An apparent deficiency in Italian asylum legislation is the right to appeal. Although asylum seekers have access to a judicial body, which examines their application both in facts and in law, this judicial body is already overloaded with cases. Another problematic aspect of the appeals procedure is that applicants placed in detention facilities and those under the accelerated procedure have only 15 days to lodge an appeal,[11] namely half of the time limit provided to applicants under the regular procedure. This provision hampers the right to judicial access and to a fair trial, as protected under Article 6 of the ECHR.

8 Legal Notice 417, Article 11 (5)

9 Refugee Law Article 9IA (3), as amended by Law 105(I)/2016, Article 12

10 Refugee Law Article 8 (1) (a), as amended by Law 105(I)/2016, Article 10 and Refugee Law Article 11 (4) (a), as amended by Law 106(I)/2016

11 Article 27 LD 142/2015

Italian law foresees no obligation for asylum seekers to appear before the judges, allowing for the judges' decision to be based on the video-recording of the applicants' interviews. As a result, asylum seekers' right to defence is substantially curtailed. Notably, there is no legal provision for free legal assistance during the first instance.

Regarding the reception of applicants, there is no uniform system. Some notable deficits of the law is that it does not provide a definition of "adequate standard of living and subsistence" and does not envisage specific financial support for different categories, such as people with special needs. Moreover, it does not provide any financial allowance for asylum applicants needing accommodation. This results in overcrowded facilities, since every applicant attempts to secure a place in the reception centres.

Conclusion and recommendations

It seems that the Directives have indeed provoked important amendments in the legislations of the south-eastern EU countries. It must be understood by all Member States that the present humanitarian crisis, which is taking place so close to Europe's borders, constitutes one of the gravest humanitarian crisis in history.

The full and correct incorporation of the Directives in the national legal orders of the South-Eastern EU Member States constitutes an imperative need and the undersigning organizations urge that more action is taken immediately towards this direction.

To this end they suggest that:

-Greece urgently takes legislative action in order to fully incorporate Directive 33 into its national legislation. It is also an imperative need that Greece reviews its current legislation regarding the detention of applicants seeking international protection;

-Malta amends its legislation to broaden the definition of family members, clarify the notions of "sufficient resources" and "reasonable period of time" and sets a minimum threshold for the provision of health care;

-Cyprus regulates the judicial review of applicants who have lodged an application prior to 20 July 2015. It should also provide guarantees for persons who have attempted to file an application, but have failed to do so. Cyprus should also amend its legislation for material reception conditions to be provided to asylum seekers during the first days subsequently to their arrival and provide guarantees for vulnerable persons to not be detained;

-Italy amends its whole judicial review system and elaborates on the notion of "adequate standard of living and subsistence" and envisages specific financial support for different categories, such as people with special needs;

-The Special Rapporteur on the human rights of migrants makes specific reference to the situation in South-Eastern Europe and makes recommendations for the amelioration of the human rights conditions of asylum seekers in the area.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Iraq Solidarity Association in Stockholm, NGO without consultative status, also share the views expressed in this statement.

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Human rights situations that require the Council's attention

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Please recycle

Myanmar: Freedom of the Press should be Urgently Restored*

Conditions for the media in Myanmar have improved significantly since the country began its ongoing transition from military dictatorship toward electoral democracy in 2015. However, the government maintains tight control over the media sector through the use of harsh defamation and other laws. In addition to prosecutions, media workers risk threats and physical violence in response to critical or investigative coverage, particularly when it focuses on the government, the military, rebel groups, or the status and treatment of the Rohingya ethnic minority. The media are deeply polarized along political lines, and independent outlets struggle for financial sustainability.

Authorities are increasingly abusing various draconian colonial and military era laws to repress reporting on a widening range of topics. Many journalists and activists had hoped the laws would be amended or scrapped when Nobel Peace Prize Laureate Suu Kyi came to power with a strong electoral mandate to push democratic change through liberal reforms.

Nonetheless, the media landscape is marked by the delay of legislative reforms, and the increasing use of litigious tactics to hamper media freedom. Authorities frequently prosecute online speech under the 2013 Telecommunications Law, which is often invoked against people who purportedly insult or defame the military and the president. Notably, prosecutions under the Telecommunication law had a 100 percent conviction rate in the period spanning 2016-17.1

The Prosecution of Journalists under Ancient Laws

At least two journalists are currently being prosecuted for defamation under Article 500 of the penal code, which dates back to the era of military rule. The two Reuters journalists, Wa Lone and Kyaw Soe Oo, have been held in Myanmar since December. At the time of their arrest the two reporters were looking into the killings in September of ten men from the Rohingya Muslim minority in a village in Rakhine state. The report, published in February by Reuters, while the two journalists were behind bars, suggests the army was responsible.

A court is deliberating over whether they will be charged under the colonial-era Official Secrets Act for possessing secret government papers - an offence that carries a maximum penalty of 14 years in prison. On April 11, a Myanmar judge rejected a defence request to dismiss the case against the two reporters for lack of evidence. The judge said he wanted to hear eight remaining prosecution witnesses out of the 25 listed. The proceedings against Wa Lone and Kyaw Soe Oo are a transparent attempt to intimidate the media and to prevent coverage of the unfolding tragedy of the Rohingya people in Myanmar's Rakhine state.

A police officer, Capt. Moe Yan Naing, in Myanmar who testified that police were to "entrap and arrest" the two reporters is now himself facing up to two years in prison under disciplinary charges. The police officer has claimed that police officers were threatened by a superior with imprisonment if they failed to capture Wa Lone. He stated that he was instructed to frame the two journalists by providing them with documents related to security operations in Rakhine state. Authorities tightly restrict reporting on military activity in Rakhine State, where the armed forces have been accused of severe mistreatment of the Rohingya population.

1 Since 2016, Myanmar Courts Have Convicted 100% of People Charged Under Telecom Law 66 (d), 29 January 2018, available at: https://globalvoices.org/2018/01/29/since-2016-myanmar-courts-have-convicted-100-of-people-charged-under-telecom-law-66-d/ (last accessed 01/05/2018)

Fear, Threats and Arrests of Local and Foreign Journalists

Press freedom is a cornerstone of democracy, and the government's growing crackdown on media is undermining the country's democratic transition. Myanmar's media, both local and foreign, are under heavy assault as security measures used to suppress the press under military rule are reactivated under Suu Kyi's quasi-democratic government.

The arrest of three local journalists--Thein Zaw with *The Irrawaddy*, and Aye Nai and Pyae Phong Aung at the *Democratic Voice of Burma* (DVB)- on June 26 in the country's northeastern Shan State and their subsequent detention raised even more serious concerns on the freedom of the press situation in Myanmar. All three were held on charges under the 1908 Unlawful Association Act, a provision used against journalists during military rule to discourage reporting on the nation's various ethnic armed conflicts.

The Myanmar military dropped the charges and the three reporters were finally released on September 1, but an intimidating precedent was set. Most –if not all- journalists feel discouraged to remain in the country and continue reporting on the ethnic cleansing taking place against the Rohingya. Since Suu Kyi came into power at least 29 journalists have been arrested, although most of them have been released. For instance, in November, two foreign journalists were charged under another obscure law, the Aircraft Act of 1934, for flying a drone over the parliament building. The prosecution of the two Reuters reporters has only made the situation worse.

The government's repressive focus now is on censoring coverage of western Rakhine State, from where over 680,000 Rohingya Muslim refugees have fled military violence into neighbouring Bangladesh since August 25 last year. The government has strictly barred reporters from the state's northern reaches - apart from a handful of tightly stage-managed press tours - in the name of security. Most of the reporting on the allegations of rape, summary executions and other abuses has been sourced through refugee and victim interviews in camps in Bangladesh.

Journalists in Myanmar can incite anger simply by using the word Rohingya, which many in the country consider a sham ethnic name for a group of imposters from Bangladesh. The situation is deteriorating for both local and foreign journalists. All of them receive threats for their lives, when they commit themselves to investigating the situation in the Rakhine State. Foreign reporters in particular face difficulties in obtaining and renewing media visas. Furthermore, more than 20 foreign staff resigned or were fired from the *Myanmar Times* after a journalist there was sacked for reporting on rape allegations by Rohingya women in late 2016.

Conclusion and Recommendations

While the Burmese authorities have restricted –or absolutely prohibited- access to the UN and foreign missions in Myanmar, journalists are frequently the only source of information regarding the humanitarian tragedy currently occurring in Myanmar. The prosecution and threats against journalists hampers the unveiling of the truth regarding the Rohingya crisis and the transition of Myanmar to democracy.

Freedom of the press shall not be restored subsequently to the ending of the ethnic cleansing against the Rohingyas or the successful establishment of democratic principles in Myanmar. There is an imperative need that freedom of the press is restored immediately and journalists be provided the opportunity to investigate the crimes taking place. The international community has the right to be properly informed on the situation in order to be able to take appropriate and just measures.

To this end, the undersigning organizations suggest that:

-The Myanmar government immediately drops charges against all detained journalists, including the two Reuters journalists;

-The Human Rights Council adopts a resolution condemning the grave violations of freedom of the press in Myanmar;

-The Human Rights Council considers sanctions to be taken against Myanmar, after assessing the situation holistically;

-The international community presses for the release of all the journalists held in captivity in Myanmar, including the two Reuters journalists;

-The Myanmar government provides local and foreign journalists with media visas and grants them access to cover the incidents taking place in the Rakhine State at their own responsibility and discontinue using security reasons as a ground for not granting access to the region;

-Myanmar reviews its legal framework regarding freedom of speech and freedom of expression and adopts legal instruments, which do not reflect a military perspective;

-Myanmar ceases enforcing laws, which date back to the colonial or military rule era;

-Myanmar ceases deterring journalists and representatives of international organs from reporting the living conditions of the Rohingya and the crimes committed against them.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), International Anti-Occupation Network (IAON), Kuala Lumpur Foundation to Criminalise War, NGOs without consultative status, also share the views expressed in this statement.

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Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

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Please recycle

Cancer: The Public Health Challenge for Syrian Refugees in Lebanon*

Background

Since the outbreak of the civil war in the Syrian Arab Republic in March 2011, over 11 million Syrians fled their homes. The majority have sought refuge in neighbouring countries such as the Republic of Turkey, Republic of Lebanon and Kingdom of Jordan. Over 1 million refugees have settled in Lebanon since the outbreak of the war, making it the country with the highest per capita concentration of refugees in the world.1 This large influx of refugees has exacerbated the political, economic and security challenges of the country. Furthermore, it has equally placed a considerable burden on the Lebanese health system. The health system has fragmented due to alternate options provided by aid organisations and poor coordination of the health system response to the refugee crisis.2 Due to irregular funding, many Syrian refugees have died of cancer.

No Access to Legal Status

In Lebanon without the necessary documentation, refugees are considered to be there illegally and this gives them a restricted legal status in the country. In a new Refugee Policy adopted in 2015 with the aim to reduce the number of refugees, the law stated that refugees now had to pay a $200 USD annual fee to maintain legal status. This did not decrease the number of refugees in Lebanon, but merely stripped more than 60% of refugees of their legal status, and as a consequence it limited their ability to move without restraint because of the fear of being arrested. Without this legal status they can no longer obtain gainful employment, have no access to health care, cannot go to school, and cannot register births and marriages. This lack of legal status contributes to widespread poverty, risks statelessness for children born in Lebanon, presents a barrier to schooling and prevents marriage.

Economic and Financial Hardship

Due to their illegal status, refugees in Lebanon are not allowed to work. Therefore, most refugees have no access to the labour market, and are completely dependent on international aid. As much as 58% of Syrian refugee households are living in extreme poverty, at less than $2.87 USD per person per day.3 On this meagre salary they are unable to cover the cost of basic necessities.

Poor Living Conditions

Syrian refugees in Lebanon live predominantly in urban and rural areas in informal settlements. Some refugees have started building informal settlements on privately owned land and dividing the cost of the rent. These informal settlements are usually makeshift tents comprised of wood and plastic. As these structures do not meet basic safety conditions, they are at a high risk of fire which can break out suddenly and spread to other closely packed tents in minutes.

The conditions in which these Syrian refugees live are squalid. They have insufficient food, no safe drinking water and hygiene standards are exceedingly poor.

Access to Health Care

As refugees with illegal status are fearful of being arrested, detained or deported, they limit their movements within the cities, and this restricts their ability to access basic services, such as health care. In addition, even if they were able to find basic services, their financial situation means that they would be unlikely to be able to pay for any kind of medical

1 European Civil Protection and Humanitarian Aid Operations – European Commission. 2018.
2 Ammar W. et al. Health system resilience: Lebanon and the Syrian refugee crisis. Journal of Global Health. 2016.
3 UNHCR, Unicef, WFP. Vulnerability Assessment of Syrian Refugees in Lebanon. 2017.

treatment. Syrian refugees with cancer are one category of this population that is at risk of not being able to have access to health care.

Local NGOs such as Karma Association, that works for equal access to healthcare, has been able to raise funds to afford treatment for young Syrian refugees. However, assistance is heavily dependent on funding and several people have been unable to receive treatment due to insufficient funding. People think first about whether they can afford the treatment before going to the doctor, so doctors see several children refugees who are in the late stage of the disease, making treatment that much more difficult. Furthermore, in some instances, as a consequence of restricted access to food and potable water they are equally in a malnutrition status. In addition, if patients with cancer live in poor conditions they are increasingly susceptible to infections, potentially with fatal consequences. Parents sometimes contact doctors to sell their organs in order to afford treatment for their children. In some cases, refugees with cancer are able to start treatments for their diseases, however, because of insufficient funds they have to stop the treatment.

According to local NGOs, the lack of funding prevents refugee children from accessing early diagnosis and healthcare. The funding depends mostly on individual donors, not on long-term sustainable solutions. Other challenges in providing care concern the restriction of movement and the refugees' illegal status.

International Human Rights Law

Although Lebanon has not ratified the 1951 Refugee Convention, all refugees have the fundamental right to the enjoyment of the highest attainable standard of health. The failure to sign or ratify the Refugee Convention is mitigated in some respects by the customary law principle of *non-refoulement* and other international human rights treaties that it is a signatory to.4 For example, Lebanon has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), which article 2.2 states that States Parties "(…) undertake to guarantee that the rights enunciated in the present covenant will be exercised without discrimination of any kind as to (…) national or social origin (…)". By virtue of these treaties, the state is legally obliged to comply with and implement all necessary measures to guarantee the safety and well-being of the refugees under its jurisdiction.

Recommendations:

The NGOs signatories to this statement suggest that the United Nations and the government of Lebanon exert all possible efforts to ensure the protection, safety and the needed care for the Syrian refugees, and take the necessary measures by the government, such as:

-Sign the 1951 Refugee Convention in order to ensure the full legal protection for refugees and asylum seekers in Lebanon;

-Develop a comprehensive refugee policy grounded in refugee rights and clear and appropriate administrative procedures for refugees from Syria in Lebanon. Include refugees who have entered through unofficial border crossings;

-Abolish the annual fee of $200 USD for the renewal of stay;

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4 Universal Declaration of Human Rights (1948): Article 1 and 2
International Covenant on Economic, Social and Cultural Rights (1966): Article 3
International Covenant on Civil and Political Rights (1966) and the Optional Protocols: Article 12
International Convention on the Elimination of All Forms of Racial Discrimination (1971): Article 1
Convention on the Rights of the Child (1991): Article 22, 23, 28, 29 and 24
Convention on the elimination of Discrimination Against Women (1997): Article 10, 11, 12, 14 – Lebanon should also withdraw reservations on Article 9(2), 16 and 29
International Labour Organization Fundamental Conventions (except No. 87)
Palermo Protocol – Prevent, Suppress, Punish Trafficking in Persons Especially Women and Children.

-Address refugees' exclusion from health care services and their unmet health needs;

-Do not require a legal stay document to access local health service providers and hospitals;

-Establish a sequence of health services, "the cancer continuum of care";

-International community and humanitarian actors should strengthen their information and services outreach to refugees, lobby the Lebanese government and provide support for the new comprehensive refugee policy reform;

-International and local organizations should coordinate their actions with the government to ensure the continuum of care;

-Explore the option of public-private initiatives to address the care continuum, support infrastructure development, capacity-building initiatives, and introduce price initiatives.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), NGOs without consultative status, also share the views expressed in this statement.

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Please recycle

Death Penalty and Summary Executions in Iraq*

In Iraq, the number of executions continues to rise, even though article 15 of the Iraqi Constitution of 2005 should preserve and protect the right to life. Restrictions on the right to life are however, built into the legislation, justifying the extreme use of the death penalty and other human rights violations. Furthermore, there is a serious lack of fair trials in the country, making the death penalty even more frequently used.

This statement sheds light on the very grave issue of the scale of executions in Iraq.

Anti-Terrorism Law

The adoption of the Anti-Terrorism law No. 13 of 2005 gives Iraqi officials broad justifications for implementing the death penalty and resulted in the perpetration of numerous human rights violations, all under the pretext of combating terrorism. These human rights violations include arbitrary arrests, disproportional violence against peaceful protesters, lack of fair trials, the retrieval of confessions under torture and the political recourse to capital punishments.

The provisions of the law are restrictive, vague and susceptible to various interpretations. A person can be sentenced to death for 48 charges in the Anti-Terrorism law, all of which are worded in an extremely vague terminology. For instance, a person can be sentenced to death if he or she is threatening to increase fear among people. Provisions like these show that capital punishments became applicable on less-severe crimes where they were previously unwarranted.

Furthermore, measures imposed in light of the Anti-Terrorism law are often applied in a sectarian way, and are being used as a weapon against political opponents, journalists and intellectuals to repress public criticism. In addition, this same law provides secret informants with both amnesty and anonymity if they report alleged terrorist activities. This has given the Iraqi authorities the opportunity to fulfill sectarian motives, and rid themselves of opponents, by using this notorious law to arrest, detain and sentence hundreds of innocent civilians to death, on the basis of false and fabricated reports. The anti-terrorism legislation is often misused in cases unrelated to terrorism.

Lack of Fair Trials

Trials in Iraq are failing to respect international fair trial standards. The country has a weak judicial system, plagued by corruption, which frequently bases convictions on coerced confessions. This means that trial proceedings fail to meet international standards, allowing these executions to be based on discriminatory and sectarian motives – putting the lives of many innocent people under threat.

The Code of Criminal Procedure No.23 of 1971, however, states that the police is required to obtain a warrant to arrest a suspect and that the suspect must be brought before a judge within 24 hours of the arrest. The code also states that officials must ensure that defendants have access to a lawyer and have adequate time to prepare an effective defense and then challenge the evidence against them. Iraq has thus the necessary legal measures to ensure fairer trials. Unfortunately, when applying the death penalty, Iraq does not comply with the fair trial standards required by international human rights law.

The Iraqi system approves of torturing practices of detainees to force confessions, which judges rely upon to charge the accused. Judges often do not order any investigation into the torture allegations and do not question the defendant further about the matter. Judges also use evidence that is gained from secret informants to pursue criminal prosecutions. Resulting in situations in which Iraqis are being detained, convicted on inappropriate evidence, and sentenced to death shortly after being arrested.1 In its 2014 Universal Periodic Review (UPR), Iraq pleaded the death penalty – after the

1 OHCHR and UNAMI, Report on the judicial response to allegations of torture in Iraq, February 2015, Baghdad.

recommendation of many states to abolish the death penalty – because of the requirement due to which the President had to ratify executions. 2 In 2015 however, changes have been made in the Criminal Procedure to allow for the death penalty to be applied in a more speedily manner. This amendment no longer requires the president to ratify executions. This has created a weak judicial process, contrary to international law.

Situations during which people get only a few minutes to defend themselves against charges of being a terrorist are occurring constantly. It only takes 10 minutes to sentence someone to death by hanging. Lawyers are often only appointed to the defendants the day of the trail, ensuring there is not enough time to prepare a proper defense. Trials like this do not contribute to a just and peaceful society.

Most charges are made regarding violations of the Anti-Terrorism law No. 13, rather than specific offenses under the criminal code. The Anti-Terrorism law allows a very broad prosecution, all those affiliated with any terrorist activities – in any way, no matter how minimal – are in danger of being executed. People who were affiliated with a terrorist group, but only contributed to the protection of the human rights of civilians (such as providing health care) can be prosecuted and executed. The Anti-Terrorism law makes it easier to prosecute, but makes it more difficult to implement a strategy in prioritizing the worse abuses under iraqi and international law.

Executions

It becomes clear that when applying the death penalty, Iraq does not comply with fair trial standards required by international human rights law. The death penalty and extrajudicial executions in Iraq are used as tools of political repression, to eliminate political opponents, and to maintain a reign of terror over the Iraqi population as a whole. These arbitrary and widespread state executions constitute an integral part of the systematic repression experienced and feared in Iraq, which the government has used to sustain its rule. This repression is further characterized by arbitrary arrests, large-scale "disappearances", indefinite detention without trial, and custodial deaths caused by torture. Further to this, when Iraqi citizens are executed by the state, the Justice Ministry releases little or no evidence as to their names, their convictions, any information about what they were convicted of, or whether they had a trial at all.

Besides the state executions, many of the Iraqi executions are not publicly known. The number of executions in Iraq is expected to be much higher than the official numbers. Iraqi militias and security forces often arrest and detain individuals without giving them or their families any information about the arrests, where the detainee is being held, or on their physical or mental condition. Instead, they deny the person has ever been arrested. These detainees are kept in secret prisons and are often people who are not terrorists, but abducted on a purely sectarian basis. Over the past 15 years lists have been made public by NGOs of people that are missing, and believed to have been executed. These lists clearly show how militias have specifically targeted certain families on purely sectarian grounds. As their arrest and detention is not publicly known, those who are arbitrarily detained are highly vulnerable to abuse by the security forces, who deny them any right to justice or accountability. Most often, these detainees are executed in secret, and their bodies are found days, weeks, or even months later, with signs of obvious torture and execution. This practice of 'secret execution' vastly increases the number of deaths caused by capital punishment and demonstrates the abuse of the death penalty.

In 2014, during the Universal Periodic Review, Iraq defended the use of the death penalty and the necessity with the argument that the country was confronted with organized and terrorist crimes, and violent acts perpetrated on racial, ethnic or religious grounds. Even though there is no reason to justify the death penalty, this reasoning is contradictory because this government approves of abductions and executions on a sectarian basis.3

2 United Nations, Human rights Council – Working Group on the Universal Periodic Review, Iraq, A/HRC/WG.6/IRQ/1.

3 United Nations, Human rights Council – Working Group on the Universal Periodic Review, Iraq, A/HRC/WG.6/IRQ/1.

Recommendations

We, NGOs, Signatories to this statement recommend that the Human Rights Council:

- Call on the Iraqi government to take all measures to amend the flawed justice system by ending arbitrary arrests, detention, unfair trials and the extrajudicial imposition of the death sentence;
- Conduct a thorough, independent, impartial, and timely investigation into the Anti-Terrorism Law N0. 13 of 2005, and whether it contravenes international legal standards;
- Appoint a UN Special Rapporteur for the human rights situation in Iraq;
- Pressure the Iraqi government to abolish the death penalty in line with the recommendations made during the 2014 UPR.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Women Solidarity for an Independent and Unified Iraq, Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, NGOs without consultative status, also share the views expressed in this statement.

United Nations A/HRC/38/NGO/131

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Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809688

Please recycle

Freedom of Expression and Association in Iraq*

On the occasion of the World Press Freedom Day on the 3rd of May 2018, the Director-General of UNESCO, Audrey Azoulay, stated that; 'The ideal of a State under the rule of law calls for well-informed citizens, transparent political decisions, public debates on topics of common interest and a plurality of viewpoints that shapes opinions and undermines official truths and dogmatism. This shaping and informative power mainly falls to the press and the media in general, under all their guises and through various mediums.'

Freedom of opinion and expression, and the right to freedom of peaceful assembly and association are cornerstones to a democratic society. These rights are established in article 19 and 20 of the Universal Declaration of Human Rights and article 19 and 21 of the International Covenant on Civil and Political rights. Both of these treaties are signed and ratified by the Iraqi government and thus the country has an international obligation to comply with these rights.

The freedom of expression and association are vital in any well-functioning political system and should therefore be protected at all costs. In Iraq however, these freedoms are often not respected. This statement is intended to focus on the restriction of these vital rights in Iraq.

Situation in Iraq

The Iraqi government unabatedly continues to severely infringe on its citizens' fundamental rights, including freedom of expression and association, which are essential to the democratic debate. There are numerous cases of violence used against peaceful protestors and kidnapping of activists, journalists and demonstrators. NGOs signatories to this statement continue to see the tendency of the Iraqi government and armed groups to shut democratic space and to hinder citizens' basic freedoms.

Journalism

Directly after the US-led invasion of 2003, Iraq became the most dangerous place for journalists. Journalists were often targeted and killed by the US military. A perfect example of this misconduct was the attack on the office and residential compound of the Arab TV network Al-Jazeera, by two American missiles.[1] The invasion and subsequent occupation of Iraq resulted in the death of a record number of journalists; it was the deadliest war for journalists recorded in history. During the occupation, more journalists were murdered in targeted killings than that died in combat-related circumstances.[2]

When ISIS controlled a big part of the Iraqi territory, ISIS was suspected to be the biggest threat to the lives of journalists in Iraq. But even the defeat of ISIS does not keep journalists from fearing for their lives. Predicted by local journalists, the emergence of militias, censorship, and sectarianism poses a threat in a post-ISIS Middle East.3 Militias active in Iraq are often responsible for the kidnapping of journalists and human rights defenders. They even openly admit to these offences by explaining that they kidnap people for writing articles against the militias, their leaders, and their "holy" activities in the media. None of these armed groups tolerate criticism and none of them are held accountable for their actions against journalists or other critics. These abductions are clearly acts of intimidation against anyone who might criticize the militias. Moreover, this is a demonstration of the violent closure of democratic space in Iraq. Despite frequent reports of cases of abuses and repression, the Iraqi government continues to infringe upon its

1 P. Knightley, "Turning the thanks on the reporters", The Guardian, www.theguardian.com/media/2003/jun/15/broadcasting.Iraqandthemedia.

2 D. Jamail, "Iraq: The deadliest war for journalists", Al Jazeera, www.aljazeera.com/humanrights/2013/04/2013481202781452.html.

3 I. Delgado Culebras, "Islamic State Recedes but threats to journalists in Iraq and Syria remain", https://cpj.org/blog/2017/12/islamic-state-recedes-but-threats-to-journalists-i.php.

citizens fundamental rights, including freedom of expression and association. The Iraqi government allows the militias to threaten and commit violent actions against civilians, while enjoying total impunity.

Journalists active in areas which were 'liberated' from ISIS continue to be cautious and apply self-censorship, because of their fear of the brutality of militias and of being accused of terrorism. It is clear that the end of ISIS does not change much for journalists in the country. If journalists would be granted more access to information they could play a vital role in Iraq's struggle against corruption. But currently, journalists face threats and murder if they uncover instances of corruption. There is a need for legal protection of journalists, which is currently lacking. The lack of protection for journalists and the climate of (self)-censorship is preventing the media from playing a vital role in the reconstruction of Iraq.4

The current situation forces Iraqi journalists to live with uncertainty, never knowing whether the threats to their lives and livelihoods will be carried out. Therefore, while the Iraqi Constitution stresses the right to freedom of expression, in reality, the detention, prosecution, and violence against independent journalists shows that freedom of press is nothing but non-existent.

Freedom of assembly

To date, Iraq continues to be one of the most perilous countries for activists, journalists and dissidents. Unfortunately, it has become a trend that every protest will end in violence. The government continues its heinous and corrupt practices in utmost impunity, while the participants in rallies are expected to abide by the law – even though the government itself is not respecting its national and international commitments related to the protection of freedom of expression, freedom of movement, and freedom of assembly and peaceful association. In recent years, the Iraqi government has forcibly shut down democratic space by silencing all those who criticize its actions and policies. The use of excessive force and brutality against innocent civilians, human rights defenders, journalists, and activists has become violent trends, perpetrated in an appalling climate of impunity.

Even though Iraqis have a constitutional right to freedom of assembly, in practice, this right is frequently restricted - and those who protest against the government do so at their own risk. The Iraqi authorities continue to block and disrupt peaceful demonstrations, which civilians use to protest against corruption and to demand greater civil and political rights. In general, the demonstrations are a response to the increased frustration with the deteriorating conditions that Iraqis are forced to live with on a daily basis. The government is not only using violence to discourage demonstrators, they increasingly are using the "fight against terrorism" as a pretext to punish those involved in peaceful protests. The broad application of the Anti-Terrorism Law No. 13 of 2005, that permits the detention and punishment of those suspected of terrorist activities, provides a legal ground to detain peaceful protestors. By alleging peaceful protestors are terrorists, governmental authorities have been provided with an excuse to target, attack and arbitrarily arrest, detain and execute innocent civilians who profess any kind of anti-government rhetoric.

These actions of the Iraqi government, and its security forces, show a clear failure to abide by Article 38 of Iraq's constitution, which guarantees the right to "freedom of assembly and peaceful demonstration/protest". Moreover, the ruthless attacks against the peaceful civilian demonstrators by government forces are in serious violation of a number of fundamental human rights.

The Iraqi government has proved unable, or unwilling, to ensure protection and to respect the fundamental rights of its citizens. The climate of impunity surrounding these illegal practices, including attacks against civilian properties and abduction of journalists and human rights defenders, perpetrated by governmental forces must end.

Recommendations

4 I. Delgado Culebras, "Islamic State Recedes but threats to journalists in Iraq and Syria remain", https://cpj.org/blog/2017/12/islamic-state-recedes-but-threats-to-journalists-i.php.

We, NGOs signatories to this statement recommend:

- Relevant UN bodies open an independent investigation into the allegations that the Iraqi government and its forces have abused the right to freedom of expression and opinion, and the right to freedom of assembly.
- The international community to undertake all measures to ensure that Iraq protects and guarantees the right of individuals to demonstrate peacefully, and stops the targeting of human rights defenders, journalists, and peaceful activists.
- An independent commission of inquiry to investigate all human rights abuses in Iraq, including the violation of the right to freedom of expression and the right to peaceful assembly.
- Ensure journalists are protected against harassment and violence while performing their duty, and that all allegations of such harassment or violence are promptly and thoroughly investigated, and those responsible are held accountable.
- The UN Human Rights Council should appoint a Special Rapporteur for the human rights situation in Iraq.
- There should be a country visit to Iraq from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Women Solidarity for an Independent and Unified Iraq, Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, NGOs without consultative status, also share the views expressed in this statement.

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Technical assistance and capacity-building

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Children in Yemen: The Future of a Whole Generation is under Threat*

The Yemeni population has been living in an ongoing civil war for more than four years now and it is facing what has been described as the "worst man-made humanitarian crisis of our times"1. In 2017, more than 11 million were in severe need of humanitarian aid or protection, and more than three million had to leave their homes2. In addition, a significant part of the population is food insecure, suffering from a lack of access to proper healthcare, and a lack of access to safe water3. The urgent need to take further measures and the necessity to have financial resources in order to alleviate the Yemeni suffering have been highlighted during the 2018 Yemen High-Level Pledging Event.

On 24 May 2018, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock, released a statement in which he stated that during the previous weeks, the country has witnessed an intensification of the conflict and, furthermore, the humanitarian action has been further limited. These elements are increasingly exacerbating the already dire humanitarian crisis, in which 8.4 million Yemenis are facing severe food insecurity.4 In this regard, on the same day, the Security Council unanimously adopted resolution 2417 (2018), in which the link between armed conflict and food insecurity is underlined.5 Furthermore, the resolution stressed that "(...) using starvation of civilians as a method of warfare may constitute a war crime", and through article 4 it highlights the significance of safe and unrestricted access to civilians in armed conflict situations.6

Children in the Conflict

In the midst of this grave humanitarian crisis, children are one category of the population that is most vulnerable and affected by the ongoing civil war. Despite the fact that Yemen has ratified seven of the nine human rights treaties, including the Convention on the Rights of the Child and two of its three protocols; today Yemeni children are facing several violations of their most basic human rights and are victims of different forms of violence. Furthermore, they are directly or indirectly, affected by numerous violations of international humanitarian law by all parties to the conflict, such as attacks against civilian infrastructures. According to UNICEF, since the beginning of the war, every day an average of five children have either been killed or wounded7. The report A/72/361 of the Secretary-General highlighted how during the cessation of hostilities that took place from April until the beginning of August 2016, the number of child causalities decreased in comparison with previous periods of the conflict. This underlines the necessity to increase efforts to establish another ceasefire agreement until a political solution is reached in order to protect and save the life of many Yemeni children.

Right to Health

The conflict has caused the destruction of several civilian infrastructures and made it difficult for the population to have access to basic public services. The health system is one of the country's services heavily affected by the war, resulting

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1 UNOCHA – Largest consolidated humanitarian appeal for Yemen to provide a lifeline to 13.1 million people, https://www.unocha.org/story/largest-consolidated-humanitarian-appeal-yemen-provide-lifeline-131-million-people

2 UNOCHA (2017), *Yemen: 2018 Humanitarian Needs Overview*

3 Ibid 2.

4 UN Office for the Coordination of Humanitarian Affairs – Under-Secretary General For Humanitarian Affairs and Emergency Relief Coordinator Mark Lowcock: Statement on the situation in Yemen, https://reliefweb.int/sites/reliefweb.int/files/resources/ERC%20USG%20Mark%20Lowcock%20on%20Yemen%2024May2018.pdf

5 UN News – UN Security Council condemns starvation of civilians as war tactic, https://news.un.org/en/story/2018/05/1010731

6 UN Security Council - Resolution 2417 (2018), https://undocs.org/S/RES/2417(2018)

7 UNICEF – Yemen conflict: A devastating tool for children https://www.unicef.org/infobycountry/yemen_85651.html

in 50 per cent8 of its facilities non-operating. Furthermore, a high number of children do not have access to clean water or adequate sanitation9. These circumstances are negatively affecting the health of a large number of Yemeni boys and girls by making them more exposed to diseases such as cholera10. Children are equally suffering from the food security crisis. In fact, 1.8 million minors under five years old are facing severe malnutrition11. This condition is making them more vulnerable when effected by various diseases, which are becoming widespread. Another element that has further complicated the delivery of urgently needed health care services is the non-payment of a big part of the health care workers' salaries12. The combination of some of these factors may expose Yemeni children to a higher risk of suffering from long term psychological consequences, as well.

Right to Education

Another basic human right is the right to education. In Yemen, two million minors are currently out-of-school. Many educational facilities have been damaged by the conflict. Some schools are used for internally displaced people or for military purposes. In addition, the high number of minors who are not attending school increased because parents are afraid to send their children during the widespread violence characterizing the country. Teachers, like health care professionals, are confronted with the non-payment of their salaries.

It is of crucial importance that children have the possibility to continue their studies. Education is a powerful tool without which they are going to face a higher risk of falling into poverty. The lack of education may also compromise future generations from recovering and rebuilding their country when the conflict is over.

Child Recruitment

Minors have been recruited to fight in the war by different parties to the conflict13. According to UNICEF, at least 2419 children have been recruited since March 201514. Their enrolment by militia groups often takes place directly in their schools and frequently with the use of force15. Nevertheless, at the same time, the large number of children who are currently out-of-school are exposed to a high risk of being recruited as well. Poverty is increasing and sometimes, because of the severity of their precarious situation, families have to send their children to fight in the war or to work.

Child Marriage

Another worrisome phenomenon that is taking place in Yemen is the increased cases of child marriage. This practice was already common before the beginning of the conflict, more or less, 52% of girls were already married before reaching the age of 18 years old16. However, the situation has deteriorated since the war, with almost 75% of girls getting married before the age of 18, and in 44.5 percent of these cases, they got married even before reaching the age of 15 years old17.

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8 WHO – Diptheria vaccination campaign for 2.7 million children concludes in Yemen http://www.emro.who.int/yem/yemen-news/diphtheria-vaccination-campaign-for-27-million-children-concludes-in-yemen.html

9 UNICEF (2018), *Born into war: 1,000 days of lost childhood*

10 Ibid 2.

11 UNICEF (2018), *If not in school: the paths children cross in Yemen*

12 Médecins Sans Frontières, Saving lives without salaries: Government health staff in Yemen, https://reliefweb.int/report/yemen/saving-lives-without-salaries-government-health-staff-yemen

13 GICJ - *Yemen: Denial of the right to education,* http://www.gicj.org/images/2016/35Session_HRC_Texts/Yemen_Denial-of-the-Right-to-Education.pdf

14 Ibid 11.

15 Ibid 13.

16 UNFPA, Fighting for justice for women amidst conflict in Yemen https://www.unfpa.org/news/fighting-justice-women-amidst-conflict-yemen

17 Ibid 11.

Similarly, as it is often the case in child recruitment, this can be caused by the fact that families are frequently confronted with desperate economic situations and have to marry their daughters in order to be released of their care costs18.

According to article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Yemen has ratified, child marriage "shall have no legal effect, and all necessary measures, including legislation, shall be taken to specify a minimum age for marriage (...)". However, in the Yemeni legislation there is no clear indication of the legal age for marriage.

Recommendations

- All parties to the conflict should respect human rights and international humanitarian laws. In particular, they should stop targeting civilian infrastructures such as schools and hospitals, and halt all forms of violence and human rights violations against minors.
- The international community and the Yemeni government should take all possible measures to ensure access to humanitarian workers in order to provide humanitarian aid to all Yemenis in urgent need.
- The Yemeni government should ensure that children's basic human rights, such as their right to health and education, are respected. Furthermore, serious efforts should be made by all relevant actors to halt child recruitment.
- The Yemeni government should clearly define in its legislation the minimum age for marriage in compliance with the international treaties it has ratified.
- The international community should enhance its efforts to reach a political solution to this conflict and, in the meantime, take all possible measures and actions to put in place a ceasefire agreement in order to alleviate prolonged civilian suffering and facilitate access of humanitarian aid.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), NGOs without consultative status, also share the views expressed in this statement.

18 Ibid 9, CNN- *She's only 12, but her father is already planning her wedding*
https://edition.cnn.com/2018/01/22/middleeast/yemen-child-marriage-asequals/index.html

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Human rights situations that require the Council's attention

Written statement* submitted by First Modern Agro. Tools - Common Initiative Group (FI.MO.AT.C.I.G), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

"De facto statelessness" of the Anglophone Linguistic Minority in Cameroon

The problem in Cameroon is not that Anglophones are not considered as Cameroonian nationals by the 36-year old government in 'excessive misuse of power' under the operation of its law; the main contention is that the nationalities of the Anglophone linguistic minority in Cameroon are not effective. This is "de facto statelessness".

Anglophones are marginalized and discriminated by the majority francophone government officials at the public service and military. Anglophone names are easily identified and then treated like second class citizens in recruitments, treatment of official documents, nominations to good positions in government etc. The law is clear and impartial but those in position of authority who are mainly the francophone people in Cameroon do not follow the letter of the law.

The manner in which government officials who are mainly francophone people apply its nationality laws practically on the Anglophone linguistic minority is partial; incompetent francophone authorities in the Anglophone regions of Cameroon do not interpret correctly the common law(the Anglophone law), consequently many find themselves in prison innocently.

Cameroonian nationality is granted based on links through families or through territory, place of birth, parents who are Cameroonians and habitual resident in Cameroon, it is only the practical aspect on how the Anglophone linguistic minority are treated that matters.

In line with the recommendations of the Special Rapporteur on minority issues to bring out the root causes of statelessness and the specific conditions or barriers that result in a huge proportion of the world's stateless persons belonging to minorities we would like to briefly say that the root causes of the " de facto statelessness of the Anglophone linguistic minority in Cameroon is the referendum in 1961 where west Cameroonians(Anglophone linguistic minority) were not permitted to achieve self-independence in 1961, followed by a unilateral change of a referral decision in 1972 on the two-state federation of francophone people and the Anglophones in Cameroon to a republic of Cameroon to the detriment of the Anglophone linguistic minority. Consequently Anglophones are marginalized and discriminated to the highest level in government. Ministers have called Anglophones two cubes of sugar dropped in a basin of water (the francophone people), and that an Anglophone (at least 7milions Anglophone nationals exist in Cameroon) cannot be president in Cameroon. Moreover the centralized nature of Cameroonian unitary state makes things more difficult to Anglophones due to language barrier when they have to encounter the central government.

What are the main obstacles to Anglophone linguistic minority people in Cameroon obtaining and/or retaining nationality? Why do they seem to be particularly affected or even targeted in this respect?

The root causes of the "de facto statelessness" of the Anglophone linguistic minority in Cameroon is the referendum in 1961 where west Cameroonians (Anglophone linguistic minority) were not permitted to achieve self-independence in 1961, followed by a unilateral change of a referral decision in 1972 on the two-state federation of francophone people and the Anglophones in Cameroon to a republic of Cameroon to the detriment of the Anglophone linguistic minority. Moreover the centralized nature of Cameroonian unitary state coupled with a 36-year rule of sit-tight President PAUL BIYA in office make things more difficult to Anglophones due to language barrier when they have to encounter the central government.

What are the challenges to effectively address statelessness, including its causes and impact on Anglophone linguistic minorities in Cameroon?

- The Marginalization of the Anglophone linguistic minority in Cameroon by the francophone majority. Anglophones sometimes called in Cameroon by the francophone people in Cameroon "Anglo-fools" due to what happened in 1961 and 1972.
- Discrimination of the Anglophones in government i.e. public service and the military in the Anglophone regions of Cameroon and

- The gradual eradication of the English culture in the Anglophone regions of Cameroon which both is assimilation and an evidence of marginalization.

"De facto stateless" Anglophone linguistic minority in Cameroon and consequential human rights situation.
The ongoing crises in the Anglophone regions of Cameroon have reached a level where the government has declared war on the Anglophone people of Cameroon. The government on its pedestal has chosen to use the gun and violence on the Anglophone linguistic minority instead of calling for inclusive dialogue and has classified people fighting for their rights as terrorists and rebels. We have recorded thousands of casualties since the beginning of the Anglophone crises, civilians' homes are burnt down and both food and cash crops are destroyed by the Cameroonian military. Civilians flee their homes and live in bushes or forests. This is mostly in places of battling between the military and the so-called Ambazonian defense forces (ADF). Ending these crises without solving the Anglophone problem would do no good as there is a very high potential of the crises to continue for the next two years and the crises would come again one day if the problem is not solved.

At least nine leaders of the interim government of SCACUF-a movement for the restoration of the independence of southern Cameroon have disappeared.
A source reported that they were abducted in Nigeria by "un commando Camerounaiseinfiltre au Nigeria", another Newspaper source says that they were abducted by the Nigerian State Security Service (SSS). It says that the SSS went with guns and ammunitions to the hotel when they took them away. Evidently it was a mixture of the two forces that carried out the operation. According to both sources they were abducted on Friday the 5th of January 2018. They were about to hold a meeting at NERA hotel Ekweuma road, Nigeria.
Those abducted include:
-Mr. AyukTabe Julius
-Dr. NforNgalaNfor
-Dr.FidelisNdeChe
-Dr.HenryKimen
-Prof. Augustine Awasum
-Dr. Cornelius Kwanga
-Mr. Tassang Wilfred
-Dr. OgorkNtui
-Barrister Elias Eyambe
-BaristerShufai Blaise Berinyuy

Ever since the Cameroonian government's spokesman Minister IssaTchiroma on the 29th of January 2018 confirmed that these activists abducted in Nigeria were extradite to Cameroon. But neither the Cameroonian government nor the Nigerian government has been able to present these activists to the public since their abduction, nor accept anyone to visit them in their prison cells, including their wives, husbands, children, friends, other family members, lawyers and the UN human right commissions. A newspaper source claim all those abducted are in Yaoundé in a place known as SED (secretaired'etat de la defence), but there is no evidence.
Amnesty International had earlier warned that extradition of these activists to Cameroon could lead to torture.
All the family members of the disappeared confirm that they do not know the whereabouts of all those who have disappeared.
They all agree with the public view that all those abducted may have been assassinated or are still in Nigeria or in Cameroon or somewhere else.
Public opinion further holds that it could make some sense if the government can explain to both National and International community why she is keeping the activists in secret incommunicado despite claiming they have been handed over to the judiciary for interrogations.
As a matter of fact I cannot jump into conclusions to say the activists are actually arbitrarily detained in Cameroon. I have a mixed feeling too; they may not be alive or are still in Nigeria if not in prison in Cameroon or elsewhere.
There have been a lot of kidnappings of government officials, tensions, luting, killings and fighting between government forces and the so-called Ambazonian Defense forces (ADF) with the characteristics of war in the Anglophone regions of Cameroon. This is in response to the disappearance of the Ambazonian leaders.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Association Bharathi Centre Culturel Franco-Tamoul, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Thoothukudi Peoples' struggle In Tamil Nadu need Special Procedures mandate holders*

Need URGENT action from OHCHR and Special procédures mandate holder regarding Tamil Nadu issues, In Tamil Nadu's Thoothukudi district, protests against Sterlite's copper smelter plant get a second wind as local residents' health and environmental concerns over the company's expansion plan lead to the revival of a long-forgotten people's movement.

On May 22, 2018, the people of Thoothukudi(Tuticorin) were protesting for the 100th day against the environmental damage caused by the copper smelter unit of Sterlite Copper company, a unit of Vedanta Group. 100 days of protests that turned violent on May 22nd, with police firing on the protesters and killing, as on date, 13 persons and injuring others, with great damage to public and private property.

PEOPLE of the port town of Thoothukudi (Tuticorin) in Tamil Nadu had never before poured out onto the streets in such large numbers as they did on March 24 in solidarity with the 100-odd residents of Kumareddiapuram who are waging a battle against the proposed Rs.3,500-crore expansion plan of Sterlite Industries (India) Limited's giant copper smelter plant situated in the State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) complex that adjoins Kumareddiapuram and a few other villages.

The residents fear that the Sterlite Copper plant will rob them of their livelihoods and, perhaps more importantly, "cripple future generations". The spontaneous mass turnout, which was likened to the "Marina struggle" of 2017 in Chennai, and the shutdown of business establishments and shops in protest against what they called "the most hazardously polluting agent" paralysed the town for eight hours and also revived the spirit of the mass agitation of a decade or so ago against the smelter plant.

Sterlite Industries, a subsidiary of the London-listed conglomerate Vedanta Resources, has been synonymous laid the foundation stone for the Rs.1,300-crore smelter project on October 31, 1994, despite stiff opposition from residents.

'Pollution capital'
Thoothukudi has, the town's residents say, emerged as the State's "pollution capital", what with many chemical industries in the area spewing out noxious fumes. Instead of addressing satisfactorily the issues that people raise, Sterlite, it is alleged, resorted to knee-jerk responses and indulged in what the protesters called "unethical practices" to break their protest.

With no clean air to breathe and no potable water to drink, we are trapped in this village, 70, of Kumareddiapuram. "The land has remained fallow and barren. Though it is rain-fed dry land, we used to cultivate pulses, maize, and so on. But farming is no longer feasible. The groundwater has been totally contaminated. We also suffer from chronic lung and skin infections. A sharp increase in cancer patients among us is also noticeable.

Sustained campaign
People in Thoothukudi recall how they, with support from all sections of society, had launched a coordinated campaign, which sadly petered out mainly owing to differences of opinion among the movement's members. Initially, the church took the initiative in organising protests involving a large number of fishermen. "It was natural that fishermen were apprehensive. Discharge of effluents into the ecologically fragile Gulf of Mannar, they feared, would destroy fish breeding spots and jeopardise their livelihood,".

The people's movement could not carry the agitation forward. Besides. The protesters, mainly fishermen, prevented Sterlite from laying an eight-kilometre-long pipeline cutting through the town to discharge effluents into the sea. Farmers in rural areas, to, staged agitations when the State government, in its order of February 28, 1995, allocated water to Sterlite Industries (2.50 million gallons a day) from its 20 mgd water supply scheme from the Tamiraparani river. The ayacutdars and other stakeholders were annoyed over the supply of water to industries in the SIPCOT complex at the cost of agriculture and drinking water needs.

Court cases

Sterlite has been facing a number of cases in various courts and also in the National Green Tribunal (NGT). The Madras High Court ordered the plant's closure on November 23, 1998, on the basis of a petition filed by the non-governmental organisation National Trust for Clean Environment, which stated that the environmental clearance granted by the State government to the plant was in violation of the provisions of the Environment (Protection) Act, 1986, the Environment (Protection) Rules, 1986, and other notifications issued thereafter. Vaiko, and K. Kanagaraj and Appadurai of the Communist Party of India (Marxist) impleaded themselves in the case.

Violent turn

Tamilmandan, one of the coordinators of the movement, was arrested. He denied any involvement in the blast. "I was harassed and tortured. Many other members were threatened. When it was over, the people's movement got diluted with none to coordinate its activities. Those who were with me had also left. I had to fight all alone to get myself exonerated of all the charges. When I was actively involved in the movement, I was just 30. I could marry only at the age of 41. Only fishermen and a few of my friends stood by me at that time of crisis,"

The unit in Thoothukudi has had a tumultuous history with closures ordered by the Tamil Nadu Pollution Control Board, a 2013 gas leak that was said to have affected the health of the villagers and the degradation of the environment, and allegations of groundwater pollution in the area. On May 23, 2018, the Tamil Nadu High Court ordered Vedanta to "cease construction and all other activities on-site proposed Unit-II of the Copper Smelting Plant at Tuticorin with immediate effect." The HC was hearing a writ petition filed in public interest challenging the environmental clearance obtained by Unit-II on 1.1.2009, and subsequently extended on later dates.

While the environmental hazards of the plant and of similar projects of Vedanta industries in other parts of the country are one serious aspect of this issue, the present matter concerns the criminal behaviour of the Tuticorin police in the manner in which the protesters were handled.

Tamil Rights activists, were there at the site of the protests and in its press release states that the protesters turned violent after the police fired upon them. The absolute lack of preparedness of the police and the state administration was clearly visible, according to many Tamil Rights activists, and the escalation of the protests and the violence thereafter that killed so many people, could have easily been avoided.

The protests did not mushroom overnight. The protesters were there for more than 3 months, peacefully demanding their rights and some modicum of action from the authorities. The frustration and anger of the protesters predictably reached boiling point due to the willful ignorance and negligence of the state authorities. The police firing that was alleged to be indiscriminate and random, with the protesters being fired upon by plain clothes policemen, is a gross and clear violation of the rule of law. To use firearms must be the last resort of law-enforcement officials and not the first point of aggression, and in doing so, the intentions of the state were betrayed - it was done in order to shut down dissent, violating their right to life under Article 21, and the basic and fundamental principles of a democracy with its foundation in the rule of law.

The aftermath of the violence also saw internet services being shutdown in 3 districts, in order to curb the violence and the spread of 'provocative' messages, a move that is questionable in its efficacy and instead, further betrays the need of the state government to control dissent.

Tamil Rights activists and The people of Tuticorin urge the judicial inquiry ordered in the matter to proceed urgently and effectively. The police officials and state government involved in the decision to fire must be held accountable. This incident once again highlights the failed project of police reforms in India and the urgent need to talk about preventing and punishing police violence and ensuring police accountability. The environmental degradation in the region must be dealt with and Vedanta must be punished, and, prevented from continuing to abuse its position and power to violate the fundamental rights of the people in the region.

Need Urgent Action from special procedure mendante holders on Tamil Nadu Human Rights Violations :

- Mr. John H. Knox, Special Rapporteur on human rights and the environment;

- Mr. Léo Heller, Special Rapporteur on the human rights to safe drinking water and sanitation.
- Ms. Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions;
- Mr. Clément Nyaletsossi Voulé, Special Rapporteur on the rights to freedom of peaceful assembly and of association ;
- UN Working Group on human rights and transnational corporations and other business enterprises,
- Mr. Baskut Tuncak, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes,
- Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders ;
- Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression ;

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*Tamil Movement (Suisse) and May 17 Movement (Tamil Nadu), NGOs without consultative status, also share the views expressed in this statement.

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Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Tamil Uzhagam, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09694(E)
1809694

Please recycle

Sterlite Protest: Decades-Old Struggle Of Thoothukudi Against Vedanta's Company*

Need Urgent Action from OHCHR and 'Special procédure mandate holders action on Tamil Nadu Police abuses against Tamil Protesters.

On 22nd, May 2018 marked the 100th day of protest against Sterlite Copper Unit in Thoothukudi, Tamil Nadu. It took a violent turn when local police opened fire, resulting in the death of 12 and leaving many others injured. In the wake of the protest, today, the Madras High Court's Madurai bench stayed the ongoing construction work for a new copper smelter.

The protest gained massive response this year as Sterlite was planning to double its capacity and expand in the view of their 25 years contract coming to an end. The locals have been demanding a closure of the copper smelting unit due to the pollution it causes and the health hazard it poses.

Over 4.6 lakh people live in eight census towns and 27 villages within a 10-km radius of the plant. For decades, activists in the area have been accusing Sterlite of contaminating the water resources and for also causing air pollution. Many villagers alleged that pollutants from the Sterlite factory were causing breathing disorders, skin diseases, heart conditions among other health problems. "It starts with throat irritation, then breathing difficulties and asthma, then we get fits and wheezing,".

The peoples in Thoothukudi have completely stopped using the groundwater, they claim. "We cannot even rinse our mouths with the water anymore, We could taste the pollutants in the water. "

In 2013, people complained that they were facing difficulties to breathe, nausea, throat infection and alleged a gas leak from Sterlite Industries plant. The plant was ordered to be closed for a while after the allegations, by the Tamil Nadu Pollution Control Board but later the National Green Tribunal let the plant reopen.

On March 24, 2018, 15,000 residents of Thoothukudi gathered with the demand of closing down of Sterlite. The protest, which reminded everyone of the 2017 Jallikattu protests in Chennai's Marina beach, was organised using social media. Their main demand was to "Ban Sterlite". The protest spread overseas when the Tamil diaspora all arround the World held a demonstration in front of Indian Embassy's and other places. All those protests happened without any untoward incident.

The massacre of 22rd May 2018
Things took an ugly turn on 22nd May 2018. This demonstration was planned days ago to mark the 100th day of the protest call to close Sterlite's functioning in the city. As the plant was not permanently closed, they decided to demonstrate in front of the District Collector's office. After a meeting with the district collector and superintendent of police, the protesters announced that the picketing has been dropped and that they would protest at a school ground.

Sandeep Nanduri, day-old district collector of Thoothukudi, released information on the casualties and said 13 people have been killed and 102 were wounded. Apart from this, 34 policemen have also been wounded.

Most shops in the town were also shut down after the calls of protest from Thoothukudi town central traders association. District collector N Venkatesh issued prohibitory order section 144 in view of the scheduled protest, while granting permission to protest only at the SAV ground near Thoothukudi old bus stand.

This took a violent turn when police prevented the protesters from marching towards the plant. In an angry retaliation, the protesters set Thoothukudi Collector office premises and the quarters of Sterlite employees on fire.

The protesters pushed back the police in riot gear and started hurling stones at them. The security personnel lobbed teargas shells to disperse them. The protesters also overturned a police vehicle and then set another vehicle on fire. At Madathur, police had to resort to a mild lathi-charge at Madathur to disperse the public gathering.

Later, police started firing. A video emerged that showed a Tamil Nadu policeman parked himself on top of a police bus with an assault rifle. From photographs and videos, it can be seen that he was taking aim.

A huge number of policemen can be seen on the road below, some just in their khakis and others in their riot gears. Moments later another policeman, like a pro commando gets on top of the bus armed with an assault rifle. A voice was heard in the background, "At least one should die" and shots were fired. It is although not clear if he shot someone but the number of casualties and the cause of their death speaks otherwise. All the people who were killed were shot above the waist. A 17-year-old girl who was shot dead was expecting her 10th Board exam results today.

Protocol to open fire
According to the Tamil Nadu police training handbook, the protocol to open fire are as follows :

- The police are first supposed to announce the protest as an unlawful assembly and ask the gathering to disperse
- If the crowd refuses to disperse then the collector is supposed to ask the police to invoke coercive measures
- In coercive measures, the police are first supposed to burst tear gas, then mild lathi-charge and if these two steps do not work then use water cannons
- If all these three steps fail then the police is supposed to announce on a megaphone that they will start firing and loss of life can happen. They should also hoist a riot flag.
- The police are then supposed to fire in the air and then aim to shoot people but only below the waist. This measure is taken to stop advancing people.

The Thoothukudi massacre shows how little has changed since the Bhopal Gas Tragedy. In fact, the corporations have grown even more brazen: emboldened by the fact that their funds are able to buy Governments and ruling parties. Corporate crimes are enabled, covered-up, and go unpunished – while people protesting to save their lives and health are shot dead.

Justice for Thoothukudi must mean that not only is the Sterlite plant shut down;

- the TNPCB officials and Sterlite management responsible for illegalities and violations must be prosecuted and punished.
- Sterlite must pay suitable reparations to the project-affected people.
- The Chief Minister of Tamil Nadu and the Prime Minister of the country should lose their jobs for Protests Against Thoothukudi Firingilling citizens and protecting a criminal Multi National Company that is playing with people's lives.

All Tamil Rights Activists and Tamils from arround the woarld condemns the killing of the protesters. They were protesting for better air and water. They were killed for demanding their basic right to clean air and water. It's high time the government takes notice of these irregularities and listens to public demand.

Need Urgent Action from special procedure mendante holders on Tamil Nadu Human Rights Violations :
Mr. John H. Knox, Special Rapporteur on human rights and the environment;
Mr. Léo Heller, Special Rapporteur on the human rights to safe drinking water and sanitation.
Ms. Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions;
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*Tamil Movement (Suisse) and May 17 Movement (Tamil Nadu), NGOs without consultative status, also share the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Tamil Uzhagam, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809799

Please recycle

Curtailment of right to peaceful assembly in TamilNadu*

TamilNadu, a southern state in the Indian Union is home to 80 Million Ethnic Tamils. The people of Tuticorin District in TamilNadu have been protesting for the past 15 years against the Sterlite copper smelting plant run by Vedanta Limited. The Copper smelting plant has been setup in an ecologically sensitive zone and is functioning amidst numerous violations. It has been the cause of land, water and air pollution and the people in the surrounding villages have been affected severely by the plants operation. The Madras High court even ordered for the shutdown of the plant in 2010 after it scrutinizing all the evidences. [1] But the Supreme Court gave permission for the plant to continue operation of the plant with a fine of 100 crores for the environmental damage it has done. [2] But the people and children in the surrounding villages continue to suffer till date by the pollution caused by the plant.

Fresh protests renewed in 2018 followed by the proposal to expand the copper smelting units. Peaceful protests have been happening for the past 100 days demanding a shutdown of the plant.[3] On March 24, 2018 over 50,000 people gathered peacefully and showed their opposition to the disastrous copper smelting plant. [4] This absolute nonviolent protest has been dealt with disproportionate violence for the past two days. On the eve of 100 days of protest, May 22 2018, the people of Tuticorin planned to protest in front of the commissioner office. When they gathered in front of the commissioner office, the massive police force already deployed resorted to lathi charge and tear gas. The peaceful protesters were then chased to an open ground and then shots were fired with the sole aim of injuring them lethally. One of the police was caught on camera saying that ***"At least one should die today".*** In the police violence around 12 people, including a 17 year old school student were killed and more than 70 injured fatally and hospitalized. [5]

In a report submitted to the UN Human rights council in 2012, the former special rapporteur on peaceful assembly and association, Maina Kiai has clearly defined what constitutes a peaceful assembly and association and its importance for a functioning democracy: "*An "assembly" is an intentional and temporary gathering in a private or public space for a specific purpose. It therefore includes demonstrations, inside meetings, strikes, 8 processions, rallies or even sits-in. Assemblies play a vibrant role in mobilizing the population and formulating grievances and aspirations, facilitating the celebration of events and, importantly, influencing States' public policy*". Contrary to this the Indian government has been constantly classifying protest by people as unlawful assembly and justified using excessive force on the peaceful gathering.

The "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials", Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 states that *"In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary."* The police rulebook in India also clearly states that to disperse an unlawful assembly first mild lathi charge and tear gas should be used. If that fails then water cannons should be employed. Only as a last measure police should resort to use of fire arms. That too the police should issue sufficient warning to the crowd, fire warning shots in the air and even when firing at the mob they should fire below the hip as deterrence. But in reality none of these rules are being followed. Even in this case, firepower has been used indiscriminately on unarmed peaceful protesters with the sole intention of causing loss of life. All the victims have been shot in the chest or head. [6]

Spine-chilling videos of police men who were not even in uniform, using sophisticated weapons against unarmed civilians emerged in the media.[7] Soon the media were forced to stop coverage of the incident. Road and train transport to and from the district was blocked. Nearly 2000 policemen from the nearby district were moved to Tuticorin district.[8] The police even went to the extent going to the hospital and attacking and harassing the injured.[9] The police had gone to the surrounding villages and involved in arson. It's not the first time that the TamilNadu police are indulging in such acts. During the 2017 Pro-Jallikattu protests, the police conducted similar atrocities on peaceful demonstrators. [10]
Today on May 23, 2018 fresh violence was unleashed on the family of those who were killed in the police atrocities. They had gathered in the Tuticorin government hospital and opposed the attempt by the government to cover-up the cold blooded murder by conducting autopsy without any witness. The police took control of the hospitals and autopsy was conducted. When the protests intensified the police again resorted to firing and one more person has been murdered in cold blood.[11]

Activists, lawyers and political leaders have not been allowed to visit the affected areas. They have been permitted to only visit the Government hospitals. So the real situation on the ground remains largely unknown.

The government is now resorting to cutting off the internet connection to Tuticorin district and two of its surrounding districts Nellai and Kanyakumari. Over 6.7 Million people living in these districts are now devoid of internet service and thus cutoff from effective communication.[12] The central government has also announced that para military forces will be deployed in these districts.[13] Facebook pages of activists who have been voicing in support of the protesting people have been blocked at the behest of the government. This repression is only a precursor to a massive violence that will be let loose on the innocent civilians.

In a similar incident in 2011, the police blocked all the roads to villages Koodankulam and idindhakarai which were protesting against the nuclear power plant, terminated power supply, prevented journalists from various national media to from entering into the villages and forced journalists to leave the villages. Reporters sans frontiers came out in support of people and condemned the state actions.

Tamil Nadu has been the victim of the Indian Government's policies in the recent years. Every time peaceful protesters are subjected to repressive state measures. We request you to take note of the situation and interfere and pressurize to the respective authorities to stop the police atrocities immediately, repeal the police forces from the Tuticorin district and ensure the safety and security of the people of the district of Tuticorin, TamilNadu. In 2016 Special Rapporteur Kiai visited US following the persistent conflict between the police and Black Lives matter and other social movements. Similarly we request you to visit or send a representative immediately to TamilNadu to conduct an inquiry into the repressive measures employed by the Indian state.

Links:

1. https://www.news18.com/news/india/vedanta-blow-349379.html
2. https://economictimes.indiatimes.com/markets/stocks/news/sc-stays-madras-hc-order-for-closure-of-sterlites-plant/articleshow/6664315.cms
3. https://www.indiatimes.com/news/india/11-killed-in-police-firing-why-people-in-tuticorin-are-angry-about-expansion-of-copper-plant-345956.html
4. https://countercurrents.org/2018/03/31/thousands-march-against-sterlite-plant-in-tuticorin/
5. https://www.ndtv.com/tamil-nadu-news/anti-sterlite-protest-at-least-1-should-die-how-cops-handled-protests-that-killed-11-1856107
6. https://www.deccanherald.com/national/anti-sterlite-protests-turn-violent-thoothukudi-671164.html
7. https://timesofindia.indiatimes.com/city/madurai/those-who-fired-were-not-in-uniform-peoples-watch/articleshow/64279666.cms
8. https://www.indiatoday.in/india/story/tuticorin-sterlite-plant-protests-tamil-nadu-aiadmk-dmk-1238610-2018-05-22
9. https://www.youtube.com/watch?v=3QLyvCeaZMo
10. https://www.livemint.com/Politics/ebyvzO6Yu13e3bX4Y0qsjN/Jallikattu-Police-unleashed-violence-say-Chennai-residents.html
11. https://www.deccanherald.com/national/tn-govt-shunts-out-tuticorin-district-collector-police-chief-671430.html
12. http://www.newindianexpress.com/states/tamil-nadu/2018/may/23/sterlite-protest-tamil-nadu-orders-internet-suspension-for-five-days-in-three-southern-districts-1818574.html
13. https://www.nationalheraldindia.com/india/live-updates-nine-dead-in-police-firing-in-sterlite-protests-in-toothukudi-tamil-nadu

*Tamil Movement (Suisse) and May 17 Movement (Tamil Nadu), NGOs without consultative status, also share the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Tamil Uzhagam, ABC Tamil Oli, Alliance Creative Community Project, Association Bharathi Centre Culturel Franco-Tamoul, Association Burkinabé pour la Survie de l'Enfance, ASSOCIATION CULTURELLE DES TAMOULS EN FRANCE, Association des étudiants tamouls de France, Association Mauritanienne pour la promotion du droit, Association pour les Victimes Du Monde, Association Solidarité Internationale pour l'Afrique (SIA), Association Thendral, Le Pont, L'observatoire mauritanien des droits de l'homme et de la démocratie, Society for Development and Community Empowerment, Tourner La Page, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809802

Please recycle

Need Urgent Action on Cauvery issue*

Deliberate inaction and unconcerned management by the Union Government of India on Cauvery River water sharing verdict issued by the Supreme Court, the Apex Court of India has raised serious concerns on THE RIGHT TO SAFE DRINKING WATER AND SANITATION in Tamil Nadu State of India.

Based on the principle of 'Right to safe drinking water and sanitation' and the subsequent obligation of the state on Special Procedure for right to safe drinking water and sanitation, 'States have the primary responsibility to ensure the full realization of all human rights and must take steps, nationally and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, to achieve progressively the full realization of the right to safe drinking water and sanitation by all appropriate means, including in particular the adoption of legislative measures in the implementation of their human rights obligations'[1].

Cauvery – The lifeline

The Cauvery River flowing through two major Indian states of Tamil Nadu and Karnataka is an indispensable lifeline for farmers and those population that depend on the river for drinking water and irrigation. 765 kilometers long River spans across the two states with a basin area of 85, 626.23 Sq. km. Out of this, 42% lies in Karnataka, 54% in Tamil Nadu & Karaikkal region (adjoining Puducherry Union Territory) and remaining 4% in neighboring state of Kerala.

Contention and contempt

The river being such a critical resource for life had remained a bone of contention for the two regions for several centuries. In the past, war and revolts have erupted in the era of kingdoms over river sharing and the sad state is continuing in the civilized society as well in the form of agitations till date due to mismanagement and deliberate inaction from the Union Govt. of India. As per the 1924 agreement by the then Madras presidency and Mysore kingdom, the water sharing rights of Tamil Nadu was reasonably upheld. Post India's independence, the water sharing dispute brewed gruesome with numerous violation by Karnataka state on construction of dams and check dams, expansion of irrigation lands without permission and more for which the Government of India took the matter to the apex court in the year 1971 resulting in no action.

In the process of legal battle and lack of commitment by the Union Govt. to uphold its international obligation on basic duty to provide water and sanitation, the state of Tamil Nadu had suffered long years of acute water scarcity, loss of lives, crops and more. There was no respite until a Tribunal verdict in 1991 ordered for a binding water sharing stipulation where Tamil Nadu's share was declared as 419 TMC of Cauvery water while the rest, 270 TMC belonged to Karnataka. The actual release of water by state of Karnataka to Tamil Nadu was fixed at 192 TMC[2].

This share was never implemented to state of Tamil Nadu for the next several years except during the times of flood. The competent central bodies kept failing in getting justice for the state of Tamil Nadu.

In the year 2007, the Tribunal once again reinstated the orders to share water as per earlier orders. Failure of implementation led both the states to take the matter to the apex court in India. Due to inaction by the state of Karnataka, the apex court mandated the Central Govt. of India to constitute Cauvery Management Board, a competent body that can ensure proper water sharing. This was in vain as well.

After extended appeals and hearings, the Supreme Court had released a final verdict early in the year 2018 ordering Karnataka to promptly share water to the state of Tamil Nadu. As a blow to the yearning people of Tamil Nadu, the water share was reduced by 14.75 TMC[3]. The latest verdict stands valid for next decade and half where 177.25 TMC of water is to be shared by Karnataka while it can retain 284 TMC.

It may also be noted that the Cauvery water Tribunal was constituted under the Act of Constitution and not simply by a Government Order (GO). The Act is called The Interstate River Water Disputes Act 1956, the members of which are as powerful as that of Supreme Court Judges and hence the Tribunal's final award is like the decree of Supreme Court. Furthermore, the Act clearly says that once the Tribunal is constituted, no court has any jurisdiction to engage in the

jurisdiction of the Tribunal. But the Supreme Court had entertained the Special Leave Petitions from all contending states through Article 131 of the constitution which in my view is a way of weakening our own laws.

Further, In 1986, the SC had ordered to constitute Cauvery Management Board within 4 weeks but it was never done. Thus govts of India and Karnataka have disobeyed the SC orders several times in the past. Therefore, contempt petition should have been filed many times before.

The Cauvery Management Board has not been formed till date and the Union Government of India has taken a hesitant stand in enforcing the verdict of apex court, breaching its obligation to provide water to its own people.

Violence and Human Rights Violation

Violent protests and riots have only added misery to this sensitive issue. Though violence has been a regular characteristic, year 1991 saw an unprecedented agitation in the state of Karnataka killing 18 people[4]. The Tamil population residing in Karnataka have been targeted and attacked. This has become a routine now for past five decades.

The authorities in Karnataka state have favored the violent mobs, restrained police actions and alleviated many groups from being charge sheeted. Internal Displacement has been happening for years together where people flee for life leaving behind their properties and livelihood.

A more recent crisis broke out in the year 2016 as well where thousands of Tamils fled the calamity areas in search of refuge and shelter. Several buses from state of Tamil Nadu were attacked and burnt. ASSOCHAM (The Associated Chambers of Commerce and Industry) has put the total loss due to violence in Bengaluru as Rs 20,000 crores. The worst was the burning of 45 luxury buses, all in a single depot. Mobs lynched elderly people and women drawing a huge case of human rights concern.

The violence, as per media records and the law enforcement authorities have remained extremely high in the state of Karnataka whereas it has been very low to mild in the state of Tamil Nadu on all occasions.

In most cases, the riots have got fanned due to inaction by both State Govt. of Karnataka and allegiance of Union Government.

Suffering in Tamil Nadu

As many as 144 farmers ended their lives in the state of Tamil Nadu within a span of three months – October to December 2016[5]. Apart from the suicides, the famers have been facing extreme levels of poverty and debts. The financial aids released have also been cursory that never really helped farmers survive.

Biased conduct

The National political parties in India have a firm grip of vote banks in Karnataka state while it is very minimal in the state of Tamil Nadu. Due to this, the National level political parties have remained acutely partial in favor of Karnataka to gain political mileage. This is a gross violation of the democratic principles, the constitution of India and also the International obligations of the Indian state.

In case of Tamil Nadu where regional parties are at the helm, the Union governments have shown no concern in getting justice to the people on their Right to access of share in the River water as a lower riparian state.

UN Resolution (Transboundary aquifer Law) violation

As per Article 6 of the Resolution adopted by the UN General Assembly on The law of transboundary aquifers[6], 'Aquifer States shall, in utilizing transboundary aquifers or aquifer systems in their territories, take all appropriate measures to prevent the causing of significant harm to other aquifer States or other States in whose territory a discharge zone is located.'

Any river cannot be used for simply draining the flood water and polluted water. This is exactly what is being meted out to TN, the lower riparian state by Karnataka and promoted by Goverrnment of India and the so-called national parties, Bharatiya Janata Party (BJP) and Congress.

The state of Karnataka in India, in allegiance with the Union Govt. of India (irrespective of different political parties and time periods) has severely violated the guidelines to prevent harm to the territory where discharge zone is located which is the State of Tamil Nadu.

Conclusion

The UNHRC - Special Procedures for 'Right to safe Drinking water and sanitation' should urge the Govt. of India, along with directions from the Supreme Court to form Cauvery Management Board that can uphold their commitment to International obligations. An ensuing action would also save lives, wipe the injustice inflicted on the people of Tamil Nadu for several decades now.

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*Tamil Movement (Suisse), May 17 Movement (Tamil Nadu), Marumalarchi Dravida Munnetra Kazhagam-MDMK (Tamil Nadu), Naam Tamilar (Tamil Nadu), Naam Tamilar (France), Naam Tamilar (Suisse), Naam Tamilar (UK), Naam Tamilar (Norway), Naam Tamilar (Hollande), Thamizhaga Ilaignar Munnani (Tamil Nadu), Thamizhga Uzhavar Munnani (Tamil Nadu), Cauvery Rights Retrieval Committee (Tamil Nadu), Thamizh Thesiya Periyakkam (Tamil Nadu), People's Union for Civil Liberties (Tamil Nadu), Thamizh Thesiya Periyakkam (Tamil Nadu), Federation of Students – Youths for Tamil Rights (Tamil Nadu), Association des Jeunes Musulman contre le Genocide (Tamil Nadu), Tamil Kalaikoodam LTD (Tamil Nadu), Green Tamilnadu Party (Tamil Nadu), Tamil Nadu Vanigar Sangankalin Peravai (Tamil Nadu), Cauvery Protection Movement (Tamil Nadu), Activist and Intellectuals + 270 Human Rights Activist from Europe and Tamil Nadu, NGOs without consultative status, also share the views expressed in this statement.

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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Jssor Youth Organization, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1809800

Please recycle

Youth faith actor's role in implementing UNSCR2250

- *More than 80 percent of the world identifies as religious, and most of the world's most violent conflicts occur in countries with the most youthful populations.*
- *Youth are often the most vulnerable and affected by violent conflict globally, and yet tend to be excluded from peacebuilding efforts.*
- *Trust needs to be built between youth leaders and traditional and nontraditional religious leaders.*
- *In leveraging the legitimacy of youth and religious leaders to engage vulnerable communities, peacebuilding practitioners and the international community can more effectively support efforts to prevent violent conflict.*
- *By identifying allies within the religious and youth communities, peacebuilding practitioners gain access to otherwise inaccessible audiences, reaching the most vulnerable populations.*

In the context of UN, United Nations Security Council Resolution 2250 on Youth, Peace and Security was adopted in December 2015, formalizing an international framework to address the critical role of youth in building and sustaining peace and preventing violent conflict. This historic resolution focused on five pillars of action to ensure that youth are included: participation, protection, prevention, partnerships, and reintegration.

Evidence shows that peace agreements that include women and civil society are 54 percent more likely to succeed.1 At the same time, the world's most violent conflicts are being fought in countries with the youngest populations.2 Building on the adoption of Resolution 2250, the UN secretary general has mandated member states to collect evidence that proves engaging youth is an effective approach to peace and security efforts. Another essential but often overlooked element in promoting peace and security is religious actors—traditional and nontraditional religious leaders, institutions, and ideas influencing the religious space. Although peace and security experts increasingly recognize the critical need to partner with them as part of local peace efforts, religious actors—like women and youth—are often left out of policy discussions and the implementation of formal processes to create and build peace.3

Recognizing that the definitions of youth and religious actors vary from community to community, this report considers youth to be young men and women between the ages of 18 and 35. Religious actors include traditional religious leaders, at the cleric level, who are often elders or men but include lay religious people, women and youth among them, who help shape a community's religious attitudes and behaviors or play key roles in faith-based social service arms and organizations.

Our findings from the consultations we organised in Lebanon, Tunisia and Iraq suggest a mutual desire to build meaningful relationships between youth and religious actors around the shared priorities of peace and security. However, perceptions of differing values and priorities are barriers to effective partnerships. Trust needs to be built between youth leaders and traditional and nontraditional religious leaders.

The international community can support these collaborations to ensure more meaningful partnerships that contribute to the implementation of UNSCR 2250.

In terms of methods in building bridges:

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1 International Civil Society Action Network, "Better Peace Tool" (www.icanpeacework.org/programs/better-peace -initiative/).

2 . In the five countries—Syria, Iraq, Afghanistan, Pakistan, and Nigeria—that suffered nearly 80 percent of recent deaths from violent extremism, half the population is younger than twenty-two, according to data from the 2015 Global Terrorism Index (http://economicsandpeace.org/wp-content/uploads/2015/11/Global-Terrorism -Index-2015.pdf).

3 Susan Hayward, "Religion and Peacebuilding: Reflections on Current Challenges and Future Prospects," Special Report no. 313 (Washington, DC: U.S. Institute of Peace, 2012).

1) Partnerships, youth and religious actors each evince a desire to build deeper mutual relationships. In the survey, youth and religious actors reported feelings of different values and different priorities, despite often citing similar goals. Participants noted that youth and religious leaders are primarily interacting through formal conferences and meetings, which tend to be one-off engagements and thus less likely to facilitate longer-term, sustainable collaboration.
When youth and religious leaders are brought together over longer periods and in more meaningful ways, such as co-developing ar d intrafaith programs, their shared values and priorities can be identified, facilitating trust and leading to stronger relationships and ultimately partnership. To implement Resolution 2250's goal of inclusive, sustainable partnerships, the international community should therefore invest in longer-term, more sustainable programming that allows relationships to develop between religious and youth actors, especially across generational divides.

2) Prevention, religious youth—that is, youth who identify themselves as actively involved in religious communities—can serve as bridge-builders between religious leaders and youth, as several youth noted in during the consultations with the youth participants during our consultations in Lebanon, Tunisia and Iraq. Youth and religious leaders can work together to bring each other to the table, especially in local engagements. For example, senior religious leaders can bring youth leaders to policy discussions or they can make sure that clerical meetings are multigenerational and include young leaders as well as older ones. This collaboration will expand circles, combine spheres of influence, and foster meaningful participation.

3) Participation, survey responses suggest that youth are still being excluded from peacebuilding dialogues and decision-making forums. When they are included, it is often through youth-only programming or the involvement of only a few privileged youth. Both youth and religious leaders also need to be included in these processes and fórums

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Al-Ayn Social Care Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

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Please recycle

Challenges of Phase

Al-Ayn Social Care Foundation (ASCF) is an organization which works to give orphaned children in Iraq the tools they need to fulfil their potential at each stage of their lives. If ASCF as an organization was able to reach its own full potential, we believe it could change the lives of the needy, orphaned children, and their families, and rectify some of the ills caused by terrorism in Iraq. Terrorism which has brought about genocide, kidnapping, and bondage, has left behind widows and orphaned children, and has led to the recruitment of children, who represent the community's hopes for the future.

The victims' lives can go one of two ways – they can either go on to contribute meaningfully to their communities or unfortunately, they can become destructive to their communities as a result of what they have experienced. As children, orphaned children have their whole lives ahead of them. They are entitled to their due rights, so that they can in turn contribute to the development of a healthy and successful civil society.

We look forward to seeing our orphaned children become well-rounded citizens, contributing positively to their society. We do not want the streets to become incubators for terrorism, crime, modern-day maladies and drug addiction. ASCF seeks to cooperate with all parties working to the same end of caring for orphaned children and sees itself as part of a global network working to assist orphaned children.

ASCF works at a grassroots level to provide care to those targeted by terrorism. We work under the ethos that it is essential to apply all the international standards of human rights, especially the agreements concerning children's rights, to the work we do. We believe a human rights based approach is a key factor in the creation of a healthy civil society, as based on those principles, justice and equal rights for all can be maintained. To achieve its goals, ASCF has engaged in various projects across Iraq, detailed below, and plans to continue this work in the future.

ASCF's Achievements at Psychological Level:

When children are exposed, at the early stages of life, to losing one parent or both parents, they can develop depression due to the lack of compassion they have experienced or their poor social relations. They may be driven to using violence, and experience serious mental health conditions such as depression, anxiety, fear, nervousness, and post-traumatic stress disorder. A general loss of hope in life, lack of motivation and overwhelming pessimism can lead to children not performing to their full potential at school, in turn leading to a low standard of education being obtained.

ASCF has been providing psychological treatment for those cases registered with the organization. A total of 1,178 individuals, in Baghdad alone, have been treated at the Psychological Rehabilitation Department affiliated with the Luminous Stars Center, established by ASCF.

ASCF sought to create other specialized centers to assist those with mental health issues and psychological needs, and so the Hikayati Center, the first of its kind in Iraq, is a new initiative launched by ASCF. The aim of the center is to focus on the psychological rehabilitation of orphaned children, working towards remedying some of the symptoms experienced by these orphaned children as a result of the lack of compassion they have received previously in their lives. We hope to nurture and develop the characters of orphaned children so they become balanced, secure and self-confident individuals.

ASCF's Further Educational Achievements:

We aim to contribute to building a stable civil society, focusing on developing all aspects of a child's needs, equipping orphaned children with knowledge and skills to enable them to make their own choices, whilst contributing themselves to a strong and better society.

Through our work, we have also participated in working towards some of the objectives of the UN Sustainable Development Goals, which are hoped to be fulfilled by 2030, as envisaged by world leaders in September 2015 in a historical universal summit. The objectives included eradicating poverty and famine of all forms, and ensuring inclusive and quality education for all, as the foundation for improving people's lives and sustainable development.

ASCF reiterates its commitment and adherence to the Universal Declaration of Human Rights, principles of International Law, covenants, conventions and agreements on human rights in general, and those relating to children's rights in particular. We believe that peace, security and prosperity at the national and international levels for any society

can only be achieved through respecting human rights, maintaining fundamental freedoms and applying all agreements and treaties in this respect.

We are also committed to the provisions of the Iraqi Constitution which aim at protecting the rights of women and children, some of which are listed below:

- Article 29- First (B) guarantees the protection of motherhood and childhood, and indicates that mothers and children should be provided with the appropriate conditions to further their talents and abilities.

  Article 30- First stipulates that the state guarantees to the individual and the family -- especially children and women -- social and health security and the basic requirements for leading a free and dignified life. The competent authorities have provided the above with support and assistance; however, these fall below the standard required due to the fact that the authorities lack a thoroughly-studied mechanism to address the crisis and accommodate the enormous number of affected individuals. This objective requires extra efforts by all state entities and NGOs which represent the people's voice.

- Article 29-Third prohibits the economic exploitation of children and guarantees their protection. It is imperative that officials and decision makers should allocate sufficient sustained financial resources for this purpose, to ensure children can engage in continuous academic or vocational education.

At the international level, the Convention on the Rights of the Child, adopted by UN in 1989, is considered the first universal legal collection of human rights with regards to children where the governments' responsibilities towards their own children are identified. Below are some of the provisions of this legal treaty most relevant to the work of ASCF:

- Articles 23, 29 & 31 bind the signatory states to provide the requirements of care and education, and underlines the importance of developing the child's characters and skills and preparing them as leaders .

- Article 39 obliges the state to rehabilitate children and ensure the integration of the victims of exploitation and armed conflicts into the community. Here, it is important to specify the requirements of entertainment, cultural and scientific activities and relief of repression caused by the misfortunes they experienced.

The centers established by ASCF and other centers under construction seek to avoid such crises as armed conflict and exploitation. Overall, we consider our work to be aligned with the objectives and values enshrined in international human rights treaties, most notably the Convention on the Rights of Children.

We also note the recommendations reported by the working team concerned with the regular comprehensive review, to the Human Rights Council, session 28, on 12.12.2014, which urge Iraq to comply with the provisions of the Children's Rights Convention, while in its recommendation nos. 127-51 & 127-59, Iraq is urged to enhance its educational and social systems, and provide appropriate food, housing and health and psychological services.

Finally, we take this opportunity to make the following recommendations to the Human Rights Council for the purposes of further protecting and enhancing the rights of children in Iraq, especially orphaned:

1. The Human Rights Council should establish a special independent committee concerned with caring for children, and in particular orphaned ones. This committee should include many NGOs with ASCF acting as a pioneer in it, given that ASCF has accumulated extensive expertise in its work for orphaned children. The committee should in no way be employed for political or partisan purposes and should act in accordance with all international laws.

2. Centers of social, educational, and psychological rehabilitation should be established following ASCF's Luminous Stars and Hikayati projects as models. They should be dispersed all over the governorates and seek to re-integrate those who have been neglected into the community. The centers should be built to accommodate the huge numbers of the afflicted in order to allow those who are assisted to become future leaders .

3. The rehabilitation centers should be provided with all the programs and modern supplies required in order to reduce the gap between the children and community due to a lack of compassion. The international organizations concerned will meet the needs of those centers, while ASCF will coordinate in this respect in view of its long experience in supporting those elements of society and establishing such centers.

4. ASCF is willing to host the first constitutional meeting for the Widows and Orphaned Children Care Council at its premises in Baghdad, where the first steps are to be taken to determine the Center's requirements and activities, and the Council's bylaws are to be considered.

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Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Some Human Rights Concerns in Nigeria*

The International Humanist and Ethical Union (IHEU) and Humanist Association of Nigeria (HAN) are concerned about three major human rights issues in Nigeria: the discrimination against those in the LGBTI community, the denial of the right to freedom of religion or belief for a significant number of people and the ongoing practice of witchcraft.

Discrimination against those in the LGBTI community

Equal rights for those in the Nigerian LGBTI community continues to be a huge point of concern. The Same Sex Marriage Prohibition Act (SSMPA) directly undermines the right to equal treatment and non-discrimination of all citizens. The bill punishes 'marriage contract and civil union entered into between persons of the same sex' with 14 years of imprisonment and 'the registration of gay clubs, societies and organisations and their meetings' as well as 'public show of same sex amorous relationships' with 10 years of imprisonment.

Following the passage of the SSMPA in 2013, LGBTI persons reported increased harassment and threats against them based on their perceived sexual orientation or gender identity. The law has been described as a tool used by police and members of the public to legitimize human rights violations against LGBTI persons such as torture, sexual violence, arbitrary detention, extortion and violations of due process rights. On 30th July 2017, over 70 young men were arrested in Lagos on the accusation of 'engaging in homosexual acts' without any evidence or legal ground.

Other effects of the SSMPA reported include increased isolation of LGBTI persons and self-censoring behaviour. According to a study published in 2015, since passage of the SSMPA, gay and bisexual men have been increasingly reluctant to access HIV health-care services due to fear of being "outed." The 707 gay and bisexual participants of the study made 756 visits to the HIV clinic before the law passed but only 420 after its enactment.

Furthermore, Sharia law and its corporal punishments are still one of the two legitimate law systems in the country. In 2000, the jurisdiction of the Sharia courts, which exist in twelve states, was extended from civil and personal matters to criminal cases. These courts condemn people who are accused of homosexual acts to death by stoning based on a simple confession, without witnesses or proof.

All of the above constitute violations not only of numerous international human rights instruments by which Nigeria is bound (such as the UN Charter, ICCPR, the African Charter, the Vienna Declaration…), but are also in breach of article 17 of the Constitution stating that the social order is founded on ideals of Freedom, Equality and Justice , that every citizen shall have equality of rights before the law and that the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced amongst other things.

Nigeria has consistently refused to accept any of the UN UPR recommendations regarding LGBTI rights, stating that "same-sex marriage is against its national values" and "not in the culture of Nigerians" and referring to polling data suggesting that 92% of Nigerians support the SSMPA on the basis of their deeply held religious, cultural and moral beliefs. Human rights and equality for all should not be undermined on a whim of the majority. Nigeria's position also goes directly against the commitment expressed by Nigeria when applying for the Human Rights Council in 2006: "reaffirms its commitment to uphold the principle of non-discrimination and the protection of the human rights of all its citizens and to this end, to accelerate the process of relevant international human rights conventions including the African Charter on Human and Peoples' Rights (…)".

Freedom of thought, conscience and belief for Humanists

Nigeria is a deeply religious country, with a population of both Christians and Muslims in a nearly equal ratio and a small percentage of the population following other religious beliefs such as indigenous faiths and no affiliations at all.

While the Nigerian Constitution guarantees freedom of religion or belief, the State endorses numerous anti-secular and theocratic policies. The government and non-state militia, such as Boko Haram, constantly violate the right to freedom of religion or belief.

Blasphemy is outlawed by the Criminal Code and Sharia law, punishable respectively by two years of imprisonment and by death.

Whilst Nigeria claims to have taken action to promote "inter-faith" dialogue and better engage religious and customary leaders, its treatment of those without religious views remains poor and engagement with humanists non-existent. State discrimination against humanist, atheist and freethinking people is manifested in a number of ways, including prohibitive social taboos against atheism and humanism and discriminatory prominence given to religious bodies, traditions or leaders, and those espousing non-theistic views being framed as blasphemers.

Whilst according to the constitution, students are not obliged to receive education of a religion that is not their own, Islamic or Christian religious education is mandatory in public school students in many regions in the country. State authorities sometimes claim that students are allowed to not attend religious instruction or to request a teacher to offer alternative instruction. However, there has been a lack of teachers in 'Christian Religious Knowledge' in many schools in the north, and there has been reports that Muslim students could not access 'Islamic Religious Knowledge' in public schools in Enugu and Edo States. There seems to be an underlying assumption that people in the country are either Christian or Muslim and must receive religious instruction in one or the other religion.

In June 2014, Mubarak Bala was assessed as needing psychiatric help because he was "an atheist" and was held against his will at a psychiatric ward in Kano, northern Nigeria. His father, formerly a senior member of the Islamic religious authorities, had orchestrated Mubarak's detention, after Mubarak had refused to keep quiet about his atheistic views on religion.

The Humanist Association of Nigeria was denied registration as an organization for 17 years before being allowed to register at the end of 2017.

"Witchcraft" accusations and related abuses

In 2008, the entire international community was in shock after seeing the horrific footage of children being killed or forced to roam the streets simply because they were labelled as "witch-children". As a result, one of the 36 states, Akwa-Ibom, adopted a law against this practice, making it punishable by 10 years imprisonment. However, up to now Akwa-Ibom is the only state with specific legislation aiming to eliminate this problem. Only 16 out of the 36 have ratified the Child Rights Act, the bill that aims to implement the Convention on the Rights of the Child, leaving children of 20 states without legal protection.

To this day, children are still branded as witches with all the terrible consequences that stigmatisation brings. For example, in August 2017, a 13-year old boy was tied to a burglar-proof for three days and burnt with a hot iron before he was rescued by the community. In June 2017, two girls, aged 10 and 13, were accused of being witches, tied up, flogged with big sticks and were burnt.

Unfortunately, the Nigerian government seems very reluctant to face this problem hands on and seems to minimize it. The Akwa-Ibom government has been seeking to discredit all NGO's and human rights defenders highlighting the issue, saying that these organisations are exaggerating to raise more funds. The governor even threatened to arrest members of these organisations.

Conclusion and recommendations

It is important to reflect on the impact of tradition and religion on people's behaviour and on societal practices. The predominantly single-minded religious and traditional view increases human rights violations in Nigeria. Whilst culture, tradition and religious doctrine are deeply important and cherished in shaping the lives of many, they should never be permitted to undermine human rights of anyone.

We therefore urge the Human Rights Council to press the government of Nigeria to:

- Revoke the SSMA immediately.
- Revoke the punishments of death by stoning under Sharia law and corporal punishment.
- Admit the existence of people who identify as LGBTI within their territory.
- Educate the Nigerian population to end the atmosphere of hate and violence towards LGTBI people and religious dissidents.

- Tackle the climate of impunity by prosecuting individuals committing human rights violations, such as accusations of witchcraft and related abuse, and attacks on citizens on the basis of their (perceived) sexual identity.
- Allow NGOs and other civil society organisations to operate freely without having fear of imprisonment or attacks.
- Respect the Nigerian Constitution and binding international instruments by ending discrimination on any ground, including one's sexual orientation or gender identity and religion or belief.
- Abolish all blasphemy laws.
- Implement the Children Rights Act in all 20 states.

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*Humanist Association of Nigeria, NGO without consultative status, also shares the views expressed in this statement.